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PROMOTION AND PROTECTION OF HUMAN RIGHTS

Status of the international covenants on human rights

Report of the Secretary-General

1. The General Assembly, in its resolution 2200 A (XXI) of 16 December 1966, adopted and opened for signature, ratification or accession the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights.

2. Both Covenants and the Optional Protocol were opened for signature at New York on 19 December 1966. In accordance with their respective provisions, the International Covenant on Economic, Social and Cultural Rights entered into force on 3 January 1976, the International Covenant on Civil and Political Rights entered into force on 23 March 1976 and the Optional Protocol to the International Covenant on Civil and Political Rights, having received the required number of ratifications or accessions, entered into force simultaneously with that Covenant on 23 March 1976.

3. The General Assembly, in its resolution 44/128 of 15 December 1989, adopted and opened for signature, ratification and accession the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and called upon all Governments in a position to do so to consider signing and ratifying or acceding to the Second Optional Protocol.

4. The Second Optional Protocol to the International Covenant on Civil and Political Rights entered into force on 11 July 1991, three months after the date of deposit with the Secretary-General of the tenth instrument of ratification or accession.

5. In its resolution 2000/67 of 26 April 2000, the Commission on Human Rights, inter alia, appealed strongly to all States that had not yet become parties to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights to do so, as well as to accede to the Optional Protocols to the International Covenant on Civil and Political Rights and to make the declaration provided for in its article 41; invited the United Nations High Commissioner for Human Rights to intensify systematic efforts to encourage States to become parties to the Covenants and, through the programme of advisory services in the field of human rights, to assist such States at their request in ratifying them or acceding to them; encouraged States parties to consider limiting the extent of any reservations they lodge to the International Covenants on Human Rights, to formulate such reservations as precisely and narrowly as possible and to ensure that no reservation was incompatible with the object and purpose of the relevant treaty or otherwise contrary to international law. The Commission also stressed the importance of avoiding the erosion of human rights by derogation and underlined the necessity for strict observance by States parties of the agreed conditions and procedures for derogation under article 4 of the International Covenant on Civil and Political Rights and the need for States parties to provide the fullest possible information during states of emergency, so that the justification for the appropriateness of measures taken in those circumstances could be assessed. The Commission further urged States parties to fulfil in good time their reporting obligations under the International Covenants on Human Rights and in their reports to make use of gender-disaggregated data; it also urged them to take duly into account, in implementing the provisions of the Covenants, the observations made at the conclusion of the consideration of their reports by the Human Rights Committee and by the Committee on Economic, Social and Cultural Rights. The Commission requested the Secretary-General to ensure that the Office of the High Commissioner for Human Rights effectively assisted the Human Rights Committee and the Committee on Economic, Social and Cultural Rights in the implementation of their respective mandates, including by the provision of adequate Secretariat staff resources. It further requested the Secretary-General to submit to it at its fifty-eighth session a report on the status of the International Covenants and the Optional Protocols to the International Covenant on Civil and Political Rights.

6. As at 1 November 2001, the International Covenant on Economic, Social and Cultural Rights had been ratified or acceded to by 145 States; the International Covenant on Civil and Political Rights by 148 States; the Optional Protocol to the International Covenant on Civil and Political Rights by 99 States; and the Second Optional Protocol to the International Covenant on Civil and Political Rights by 46 States.

7. Upon ratification of the International Covenant on Civil and Political Rights or subsequently 47 States made the declaration provided for in article 41 of the Covenant, recognizing the competence of the Human Rights Committee established under article 28 of the Covenant to receive and consider communications to the effect that a State party claims that another State party is not fulfilling its obligations under the Covenant. The provisions of

article 41 entered into force on 28 March 1979 in accordance with paragraph 2 of that article. No inter-State communication under article 41 of the Covenant had been filed as of the date of the present report.

8. Under the Optional Protocol to the International Covenant on Civil and Political Rights, individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration. As of the date of the present report, the Committee had registered over 1,021 communications and adopted final decisions on the merits ("Views" under article 5, paragraph 4, of the Optional Protocol) with respect to 377 of them.

9. Since the previous report to the Commission on Human Rights (E/CN.4/2001/87) the Human Rights Committee has adopted general comment No. 28 on equality of men and women (article 3 of the Covenant), and general comment No. 29 on derogations and states of emergency. The Committee on Economic, Social and Cultural Rights, at its twenty-fifth session (23 April-11 May 2001) adopted a statement to the Third United Nations Conference on the Least Developed Countries on "Poverty and the International Covenant on Economic, Social and Cultural Rights" and at its twenty-eighth session (12-30 November 2001) adopted, in follow-up to its day of general discussion on article 15.1 (c) a statement on "Human rights and intellectual property issues".

10. The lists of the States parties to the Covenants and the Optional Protocols, the dates of their ratifications, accessions or successions, as well as the dates of entry into force of those instruments for each State appear in annexes I and II to the present document.

Annex I

STATES PARTIES TO THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS AS AT 1 NOVEMBER 2001 (145)

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Afghanistan	24 January 1983[a]	24 April 1983
Albania	4 October 1991[a]	4 January 1992
Algeria	12 September 1989	12 December 1989
Angola	10 January 1992[a]	10 April 1992
Argentina	8 August 1986	8 November 1986
Armenia	13 September 1993	13 December 1993
Australia	10 December 1975	10 March 1976
Austria	10 September 1978	10 December 1978
Azerbaijan	13 August 1992[a]	13 November 1992
Bangladesh	5 October 1998[a]	5 January 1999
Barbados	5 January 1973[a]	3 January 1976
Belarus	12 November 1973	3 January 1976
Belgium	21 April 1983	21 July 1983
Benin	12 March 1992[a]	12 June 1992
Bolivia	12 August 1982[a]	12 November 1982
Bosnia and Herzegovina	1 September 1993[b]	6 March 1992
Brazil	24 January 1992[a]	24 April 1992
Bulgaria	21 September 1970	3 January 1976
Burkina Faso	4 January 1999[a]	4 April 1999
Burundi	9 May 1990[a]	9 August 1990
Cambodia	26 May 1992[a]	26 August 1992
Cameroon	27 June 1984[a]	27 September 1984
Canada	19 May 1976[a]	19 August 1976
Cape Verde	6 August 1993[a]	6 November 1993
Central African Republic	8 May 1981[a]	8 August 1981
Chad	9 June 1995[a]	9 September 1995
Chile	10 February 1972	3 January 1976
China	27 March 2001	27 June 2001
Colombia	29 October 1969	3 January 1976
Congo	5 October 1983[a]	5 January 1984

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Costa Rica	29 November 1968	3 January 1976
Côte d'Ivoire	26 March 1992[a]	26 June 1992
Croatia	8 October 1991[b]	8 October 1991
Cyprus	2 April 1969	3 January 1976
Czech Republic	22 February 1993[b]	1 January 1993
Democratic People's Republic of Korea	14 September 1981[a]	14 December 1981
Democratic Republic of the Congo	1 November 1996[a]	1 February 1997
Denmark	6 January 1972	3 January 1976
Dominica	17 June 1993[a]	17 September 1993
Dominican Republic	4 January 1978[a]	4 April 1978
Ecuador	6 March 1969	3 January 1976
Egypt	14 January 1982	14 April 1982
El Salvador	30 November 1979	29 February 1980
Equatorial Guinea	25 September 1987[a]	25 December 1987
Eritrea	17 April 2001	17 July 2001
Estonia	21 October 1991[a]	21 January 1992
Ethiopia	11 June 1993[a]	11 September 1993
Finland	19 August 1975	3 January 1976
France	4 November 1980[a]	4 February 1981
Gabon	21 January 1983[a]	21 April 1983
Gambia	29 December 1978[a]	29 March 1979
Georgia	3 May 1994[a]	3 August 1994
Germany	17 December 1973	3 January 1976
Ghana	7 September 2000	7 December 2000
Greece	16 May 1985[a]	16 August 1985
Grenada	6 September 1991[a]	6 December 1991
Guatemala	19 May 1988[a]	19 August 1988
Guinea	24 January 1978	24 April 1978
Guinea-Bissau	2 July 1992[a]	2 October 1992
Guyana	15 February 1977	15 May 1977
Honduras	17 February 1981[a]	17 May 1981
Hungary	17 January 1974	3 January 1976
Iceland	22 August 1979	22 November 1979
India	10 April 1979[a]	10 July 1979
Iran (Islamic Republic of)	24 June 1975	3 January 1976

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Iraq	25 January 1971	3 January 1976
Ireland	8 December 1989	8 March 1990
Israel	3 October 1991	3 January 1992
Italy	15 September 1978	15 December 1978
Jamaica	3 October 1975	3 January 1976
Japan	21 June 1979	21 September 1979
Jordan	28 May 1975	3 January 1976
Kenya	1 May 1972[a]	3 January 1976
Kuwait	21 May 1996[a]	21 August 1996
Kyrgyzstan	7 October 1994	7 January 1995
Latvia	14 April 1992[a]	14 July 1992
Lebanon	3 November 1972[a]	3 January 1976
Lesotho	9 September 1992[a]	9 December 1992
Libyan Arab Jamahiriya	15 May 1970[a]	3 January 1976
Liechtenstein	10 December 1998[a]	10 March 1999
Lithuania	20 November 1991[a]	20 February 1992
Luxembourg	18 August 1983	18 November 1983
Madagascar	22 September 1971[a]	3 January 1976
Malawi	22 December 1993[a]	22 March 1994
Mali	16 July 1974[a]	3 January 1976
Malta	13 September 1990	13 December 1990
Mauritius	12 December 1973[a]	3 January 1976
Mexico	23 March 1981[a]	23 June 1981
Monaco	28 August 1997	28 November 1997
Mongolia	18 November 1974	3 January 1976
Morocco	3 May 1979	3 August 1979
Namibia	22 December 1993[a]	22 March 1994
Nepal	14 May 1991[a]	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	28 December 1978	28 March 1979
Nicaragua	12 March 1980[a]	12 June 1980
Niger	7 March 1986[a]	7 June 1986
Nigeria	29 July 1993[a]	29 October 1993
Norway	13 September 1972	3 January 1976
Panama	8 March 1977	8 June 1977

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Paraguay	10 June 1992[a]	10 September 1992
Peru	28 April 1978	28 July 1978
Philippines	7 June 1974	3 January 1976
Poland	18 March 1977	18 June 1977
Portugal	31 July 1978	31 October 1978
Republic of Korea	10 April 1990[a]	10 July 1990
Republic of Moldova	26 January 1993[a]	26 April 1993
Romania	9 December 1974	3 January 1976
Russian Federation	16 October 1973	3 January 1976
Rwanda	16 April 1975[a]	3 January 1976
Saint Vincent and the Grenadines	9 November 1981[a]	9 February 1982
San Marino	18 October 1985[a]	18 January 1986
Senegal	13 February 1978	13 May 1978
Seychelles	5 May 1992[a]	5 August 1992
Sierra Leone	23 August 1996[a]	23 November 1996
Slovakia	28 May 1993[b]	1 January 1993
Slovenia	6 July 1992[a]	6 July 1992
Solomon Islands	17 March 1982[b]	17 March 1982
Somalia	24 January 1990[a]	24 April 1990
Spain	27 April 1977	27 July 1977
Sri Lanka	11 June 1980[a]	11 September 1980
Sudan	18 March 1986[a]	18 June 1986
Suriname	28 December 1976[a]	28 March 1977
Sweden	6 December 1971	3 January 1976
Switzerland	18 June 1992[a]	18 September 1992
Syrian Arab Republic	21 April 1969[a]	3 January 1976
Tajikistan	4 January 1999[a]	4 April 1999
Thailand	5 September 1999	5 December 1999
The former Yugoslav Republic of Macedonia	18 January 1994[b]	17 September 1991
Togo	24 May 1984[a]	24 August 1984
Trinidad and Tobago	8 December 1978[a]	8 March 1979
Tunisia	18 March 1969	3 January 1976
Turkmenistan	1 May 1997[a]	1 August 1997
Uganda	21 January 1987[a]	21 April 1987
Ukraine	12 November 1973	3 January 1976

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
United Kingdom of Great Britain and Northern Ireland	20 May 1976	20 August 1976
United Republic of Tanzania	11 June 1976[a]	11 September 1976
Uruguay	1 April 1970	3 January 1976
Uzbekistan	28 September 1995	28 December 1995
Venezuela	10 May 1978	10 August 1978
Viet Nam	24 September 1982[a]	24 December 1982
Yemen	9 February 1987[a]	9 May 1987
Yugoslavia	12 March 2001[b]	[c]
Zambia	10 April 1984[a]	10 July 1984
Zimbabwe	13 May 1991[a]	13 August 1991

[a] Accession.

[b] Succession.

[c] Yugoslavia came into being on 27 April 1992 following the promulgation of the Constitution of the Federal Republic of Yugoslavia on that day. Yugoslavia nevertheless advised the Secretary-General on 27 April 1992 that it claimed to continue the international legal personality of the former Yugoslavia. Yugoslavia accordingly claimed to be a member of those international organizations of which the former Yugoslavia had been a member. It also claimed that all those treaty acts that had been performed by the former Yugoslavia were directly attributable to it, as being the same State (see documents S/23877 and A/46/915).

Annex II

STATES PARTIES TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS AND TO THE OPTIONAL PROTOCOLS AND STATES WHICH HAVE MADE THE DECLARATION UNDER ARTICLE 41 OF THE COVENANT AS AT 1 NOVEMBER 2001

A. States parties to the International Covenant on Civil and Political Rights (148)

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Afghanistan	24 January 1983[a]	24 April 1983
Albania	4 October 1991[a]	4 January 1992
Algeria	12 September 1989	12 December 1989
Angola	10 January 1992[a]	10 April 1992
Argentina	8 August 1986	8 November 1986
Armenia	23 June 1993[a]	
Australia	13 August 1980	13 November 1980
Austria	10 September 1978	10 December 1978
Azerbaijan	13 August 1992[a]	[b]
Bangladesh	6 September 2000[a]	6 December 2000
Barbados	5 January 1973[a]	23 March 1976
Belarus	12 November 1973	23 March 1976
Belgium	21 April 1983	21 July 1983
Belize	10 June 1996[a]	10 September 1996
Benin	12 March 1992[a]	12 June 1992
Bolivia	12 August 1982[a]	12 November 1982
Bosnia and Herzegovina	1 September 1993[c]	6 March 1992
Botswana		
Brazil	24 January 1992[a]	24 April 1992
Bulgaria	21 September 1970	23 March 1976
Burkina Faso	4 January 1999[a]	4 April 1999
Burundi	9 May 1990[a]	9 August 1990
Cambodia	26 May 1992[a]	26 August 1992
Cameroon	27 June 1984[a]	27 September 1984
Canada	19 May 1976[a]	19 August 1976
Cape Verde	6 August 1993[a]	6 November 1993
Central African Republic	8 May 1981[a]	8 August 1981
Chad	9 June 1995[a]	9 September 1995
Chile	10 February 1972	23 March 1976
Colombia	29 October 1969	23 March 1976

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Congo	5 October 1983[a]	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	26 March 1992[a]	26 June 1992
Croatia	12 October 1992[c]	8 October 1991
Cyprus	2 April 1969	23 March 1976
Czech Republic	22 February 1993[c]	1 January 1993
Democratic People's Republic of Korea	14 September 1981[a]	14 December 1981
Democratic Republic of the Congo	1 November 1976[a]	1 February 1977
Denmark	6 January 1972	23 March 1976
Dominica	17 June 1993[a]	17 September 1993
Dominican Republic	4 January 1978[a]	4 April 1978
Ecuador	6 March 1969	23 March 1976
Egypt	14 January 1982	14 April 1982
El Salvador	30 November 1979	29 February 1980
Equatorial Guinea	25 September 1987[a]	25 December 1987
Estonia	21 October 1991[a]	21 January 1992
Ethiopia	11 June 1993[a]	11 September 1993
Finland	19 August 1975	23 March 1976
France	4 November 1980[a]	4 February 1981
Gabon	21 January 1983[a]	21 April 1983
Gambia	22 March 1979[a]	22 June 1979
Georgia	3 May 1994[a]	[b]
Germany	17 December 1973	23 March 1976
Ghana	7 September 2000	7 December 2000
Greece	5 May 1997[a]	5 August 1997
Grenada	6 September 1991[a]	6 December 1991
Guatemala	6 May 1992[a]	5 August 1992
Guinea	24 January 1978	24 April 1978
Guyana	15 February 1977	15 May 1977
Haiti	6 February 1991[a]	6 May 1991
Honduras	25 August 1997	25 November 1997
Hungary	17 January 1974	23 March 1976
Iceland	22 August 1979	22 November 1979
India	10 April 1979[a]	10 July 1979
Iran, Islamic Republic of	24 June 1975	23 March 1976

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Iraq	25 January 1971	23 March 1976
Ireland	8 December 1989	8 March 1990
Israel	3 October 1991[a]	3 January 1992
Italy	15 September 1978	15 December 1978
Jamaica	3 October 1975	23 March 1976
Japan	21 June 1979	21 September 1979
Jordan	28 May 1975	23 March 1976
Kazakhstan[d]		
Kenya	1 May 1972[a]	23 March 1976
Kuwait	21 May 1996[a]	21 August 1996
Kyrgyzstan	7 October 1994[a]	[b]
Latvia	14 April 1992[a]	14 July 1992
Lebanon	3 November 1972[a]	23 March 1976
Lesotho	9 September 1992[a]	9 December 1992
Libyan Arab Jamahiriya	15 May 1970[a]	23 March 1976
Liechtenstein	10 December 1998[a]	10 March 1999
Lithuania	20 November 1991[a]	20 February 1992
Luxembourg	18 August 1983	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	22 December 1993[a]	22 March 1994
Mali	16 July 1974[a]	23 March 1976
Malta	13 September 1990[a]	13 December 1990
Mauritius	12 December 1973[a]	23 March 1976
Mexico	23 March 1981[a]	23 June 1981
Monaco	28 August 1997	28 November 1997
Mongolia	18 November 1974	23 March 1976
Morocco	3 May 1979	3 August 1979
Mozambique	21 July 1993[a]	21 October 1993
Namibia	28 November 1994[a]	28 February 1995
Nepal	14 May 1991	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	28 December 1978	28 March 1979
Nicaragua	12 March 1980[a]	12 June 1980
Niger	7 March 1986[a]	7 June 1986
Nigeria	29 July 1993[a]	29 October 1993

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1997
Paraguay	10 June 1992[a]	10 September 1992
Peru	28 April 1978	28 July 1978
Philippines	23 October 1986	23 January 1987
Poland	18 March 1977	18 June 1977
Portugal	15 June 1978	15 September 1978
Republic of Korea	10 April 1990[a]	10 July 1990
Republic of Moldova	26 January 1993[a]	[b]
Romania	9 December 1974	23 March 1976
Russian Federation	16 October 1973	23 March 1976
Rwanda	16 April 1975[a]	23 March 1976
Saint Vincent and the Grenadines	9 November 1981[a]	9 February 1982
San Marino	18 October 1985[a]	18 January 1986
Senegal	13 February 1978	13 May 1978
Seychelles	5 May 1992[a]	5 August 1992
Sierra Leone	23 August 1996[a]	23 November 1996
Slovakia	28 May 1993[c]	1 January 1993
Slovenia	6 July 1992[c]	25 June 1991
Somalia	24 January 1990[a]	24 April 1990
South Africa	10 December 1998[a]	10 March 1999
Spain	27 April 1977	27 July 1977
Sri Lanka	11 June 1980[a]	11 September 1980
Sudan	18 March 1986[a]	18 June 1986
Suriname	28 December 1976[a]	28 March 1977
Sweden	6 December 1971	23 March 1976
Switzerland	18 June 1992[a]	18 September 1992
Syrian Arab Republic	21 April 1969[a]	23 March 1976
Tajikistan	4 January 1999	4 April 1999
Thailand	29 October 1996[a]	29 January 1997
The former Yugoslav Republic of Macedonia	17 September 1991[c]	17 September 1991
Togo	24 May 1984[a]	24 August 1984
Trinidad and Tobago	21 December 1978[a]	21 March 1979
Tunisia	18 March 1969	23 March 1976
Turkmenistan	1 May 1997[a]	[b]

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Uganda	21 June 1995[a]	21 September 1995
Ukraine	12 November 1973	23 March 1976
United Kingdom of Great Britain and Northern Ireland	20 May 1976	20 August 1976
United Republic of Tanzania	11 June 1976[a]	11 September 1976
United States of America	8 June 1992	8 September 1992
Uruguay	1 April 1970	23 March 1976
Uzbekistan	28 September 1995	[b]
Venezuela	10 May 1978	10 August 1978
Viet Nam	24 September 1982[a]	24 December 1982
Yemen	9 February 1987[a]	9 May 1987
Yugoslavia	12 March 2001[d]	23 March 1976[g]
Zambia	10 April 1984[a]	10 July 1984
Zimbabwe	13 May 1991[a]	13 August 1991

In addition to the States parties listed above, the Covenant continues to apply in Hong Kong Special Administrative Region, People's Republic of China, and in Macao Special Administrative Region, People's Republic of China.[e]

B. States parties to the Optional Protocol (99)

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Algeria	12 September 1989[a]	12 December 1989
Angola	10 January 1992[a]	10 April 1992
Argentina	8 August 1986[a]	8 November 1986
Armenia	23 June 1993	23 September 1993
Australia	25 September 1991[a]	25 December 1991
Austria	10 December 1987	10 March 1988
Barbados	5 January 1973[a]	23 March 1976
Belarus	30 September 1992[a]	30 December 1992
Belgium	17 May 1994[a]	17 August 1994
Benin	12 March 1992[a]	12 June 1992
Bolivia	12 August 1982[a]	12 November 1982
Bosnia and Herzegovina	1 March 1995	1 June 1995
Bulgaria	26 March 1992[a]	26 June 1992
Burkina Faso	4 January 1999[a]	4 April 1999
Cameroon	27 June 1984[a]	27 September 1984

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Canada	19 May 1976[a]	19 August 1976
Cape Verde	19 May 2000[a]	19 August 2000
Central African Republic	8 May 1981[a]	8 August 1981
Chad	9 June 1995	9 September 1995
Chile	28 May 1992[a]	28 August 1992
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983[a]	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	5 March 1997	5 June 1997
Croatia	12 October 1995	12 January 1996
Cyprus	15 April 1992	15 July 1992
Czech Republic	22 February 1993[c]	1 January 1993
Democratic Republic of the Congo	1 November 1976[a]	1 February 1977
Denmark	6 January 1972	23 March 1976
Dominican Republic	4 January 1978[a]	4 April 1978
Ecuador	6 March 1969	23 March 1976
El Salvador	6 June 1995	6 September 1995
Equatorial Guinea	25 September 1987[a]	25 December 1987
Estonia	21 October 1991[a]	21 January 1992
Finland	19 August 1975	23 March 1976
France	17 February 1984[a]	17 May 1984
Gambia	9 June 1988[a]	9 September 1988
Georgia	3 May 1994[a]	3 August 1994
Germany	25 August 1993	25 November 1993
Ghana	7 September 2000	7 December 2000
Greece	5 May 1997[a]	5 August 1997
Guatemala	28 November 2000	28 February 2001
Guinea	17 June 1993	17 September 1993
Guyana[f]	10 May 1993[a]	10 August 1993
Hungary	7 September 1988[a]	7 December 1988
Iceland	22 August 1979[a]	22 November 1979
Ireland	8 December 1989	8 March 1990
Italy	15 September 1978	15 December 1978
Kyrgyzstan	7 October 1994[a]	7 January 1995
Latvia	22 June 1994[a]	22 September 1994

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Lesotho	6 September 2000[a]	6 December 2000
Libyan Arab Jamahiriya	16 May 1989[a]	16 August 1989
Liechtenstein	10 December 1998[a]	10 March 1999
Lithuania	20 November 1991[a]	20 February 1992
Luxembourg	18 August 1983[a]	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	11 June 1996	11 September 1996
Malta	13 September 1990[a]	13 December 1990
Mauritius	12 December 1973[a]	23 March 1976
Mongolia	16 April 1991[a]	16 July 1991
Namibia	28 November 1994[a]	28 February 1995
Nepal	14 May 1991[a]	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	26 May 1989[a]	26 August 1989
Nicaragua	12 March 1980[a]	12 June 1980
Niger	7 March 1986[a]	7 June 1986
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Paraguay	10 January 1995[a]	10 April 1995
Peru	3 October 1980	3 January 1981
Philippines	22 August 1989[a]	22 November 1989
Poland	7 November 1991[a]	7 February 1992
Portugal	3 May 1983	3 August 1983
Republic of Korea	10 April 1990[a]	10 July 1990
Romania	20 July 1993[a]	20 October 1993
Russian Federation	1 October 1991[a]	1 January 1992
Saint Vincent and the Grenadines	9 November 1981[a]	9 February 1982
San Marino	18 October 1985[a]	18 January 1986
Senegal	13 February 1978	13 May 1978
Seychelles	5 May 1992[a]	5 August 1992
Sierra Leone	23 August 1996[a]	23 November 1996
Slovakia	28 May 1993[c]	1 January 1993
Slovenia	16 July 1993[a]	16 October 1993
Somalia	24 January 1990[a]	24 April 1990
Spain	25 January 1985[a]	Indefinitely

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Sri Lanka[a]	3 October 1997	3 January 1998
Suriname	28 December 1976[a]	28 March 1977
Sweden	6 December 1971	23 March 1976
Tajikistan	4 January 1999[a]	4 April 1999
The former Yugoslav Republic of Macedonia	12 December 1994[a]	12 March 1995
Togo	30 March 1988[a]	30 June 1988
Turkmenistan[b]	1 May 1997[a]	1 August 1997
Uganda	14 November 1995	14 February 1996
Ukraine	25 July 1991[a]	25 October 1991
Uruguay	1 April 1970	23 March 1976
Uzbekistan	28 September 1995	28 December 1995
Venezuela	10 May 1978	10 August 1978
Yugoslavia	6 September 2001	6 December 2001
Zambia	10 April 1984[a]	10 July 1984

C. States parties to the Second Optional Protocol, aiming at the abolition of the death penalty (46)

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Australia	2 October 1990[a]	11 July 1991
Austria	2 March 1993	2 June 1993
Azerbaijan	22 January 1999[a]	22 April 1999
Belgium	8 December 1998	8 March 1999
Bosnia and Herzegovina	16 March 2001	16 June 2001
Bulgaria	10 August 1999	10 November 1999
Cape Verde	19 May 2000[a]	19 August 2000
Colombia	5 August 1997	5 November 1997
Costa Rica	5 June 1998	5 September 1998
Croatia	12 October 1995	12 January 1996
Cyprus	10 September 1999[a]	10 December 1999
Denmark	24 February 1994	24 May 1994
Ecuador	23 February 1993[a]	23 May 1993
Finland	4 April 1991	11 July 1991
Georgia	22 March 1999[a]	22 June 1999

State party	Date of receipt of the instrument of ratification or accession or succession	Date of entry into force
Germany	18 August 1992	18 November 1992
Greece	5 May 1997[a]	5 August 1997
Hungary	24 February 1994[a]	24 May 1994
Iceland	2 April 1991	11 July 1991
Ireland	18 June 1993[a]	18 September 1993
Italy	14 February 1995	14 May 1995
Liechtenstein	10 December 1998	10 March 1999
Luxembourg	12 February 1992	12 May 1992
Malta	29 December 1994	29 March 1995
Monaco	28 March 2000[a]	28 June 2000
Mozambique	21 July 1993[a]	21 October 1993
Namibia	28 November 1994[a]	28 February 1995
Nepal	4 March 1998	4 June 1998
Netherlands	26 March 1991	11 July 1991
New Zealand	22 February 1990	11 July 1991
Norway	5 September 1991	5 December 1991
Panama	21 January 1993[a]	21 April 1993
Portugal	17 October 1990	11 July 1991
Romania	27 February 1991	11 July 1991
Seychelles	15 December 1994[a]	15 March 1995
Slovakia	22 June 1999[a]	22 September 1999
Slovenia	10 March 1994	10 June 1994
Spain	11 April 1991	11 July 1991
Sweden	11 May 1990	11 July 1991
Switzerland	16 June 1994[a]	16 September 1994
The former Yugoslav Republic of Macedonia	26 January 1995[a]	26 April 1995
Turkmenistan	11 January 2000[a]	11 April 2000
United Kingdom of Great Britain and Northern Ireland	19 December 1999	10 March 2000
Uruguay	21 January 1993	21 April 1993
Venezuela	22 February 1993	22 May 1993
Yugoslavia	6 September 2001	6 December 2001

D. States which have made the declaration under article 41 of the Covenant (47)

State party	Valid from	Valid until
Algeria	12 September 1989	Indefinitely
Argentina	8 August 1986	Indefinitely
Australia	28 January 1993	Indefinitely
Austria	10 September 1978	Indefinitely
Belarus	30 September 1992	Indefinitely
Belgium	5 March 1987	Indefinitely
Bosnia and Herzegovina	6 March 1992	Indefinitely
Bulgaria	12 May 1993	Indefinitely
Canada	29 October 1979	Indefinitely
Chile	11 March 1990	Indefinitely
Congo	7 July 1989	Indefinitely
Croatia	12 October 1995	Indefinitely
Czech Republic	1 January 1993	Indefinitely
Denmark	23 March 1976	Indefinitely
Ecuador	24 August 1984	Indefinitely
Finland	19 August 1975	Indefinitely
Gambia	9 June 1988	Indefinitely
Germany	28 March 1979	10 May 2006[g]
Guyana	10 May 1993	Indefinitely
Hungary	7 September 1988	Indefinitely
Iceland	22 August 1979	Indefinitely
Ireland	8 December 1989	Indefinitely
Italy	15 September 1978	Indefinitely
Liechtenstein	10 March 1999	Indefinitely
Luxembourg	18 August 1983	Indefinitely
Malta	13 September 1990	Indefinitely
Netherlands	11 December 1978	Indefinitely
New Zealand	28 December 1978	Indefinitely
Norway	23 March 1976	Indefinitely
Peru	9 April 1984	Indefinitely
Philippines	23 October 1986	Indefinitely
Poland	25 September 1990	Indefinitely
Republic of Korea	10 April 1990	Indefinitely
Russian Federation	1 October 1991	Indefinitely
Senegal	5 January 1981	Indefinitely

State party	Valid from	Valid until
Slovakia	1 January 1993	Indefinitely
Slovenia	6 July 1992	Indefinitely
South Africa	10 March 1999	Indefinitely
Spain	25 January 1985	Indefinitely
Sri Lanka	11 June 1980	Indefinitely
Sweden	23 March 1976	Indefinitely
Switzerland	18 September 1992	18 September 2002
Tunisia	24 June 1993	Indefinitely
Ukraine	28 July 1992	Indefinitely
United Kingdom of Great Britain and Northern Ireland	20 May 1976	Indefinitely
United States of America	8 September 1992	Indefinitely
Zimbabwe	20 August 1991	Indefinitely

Notes

[a] Accession.

[b] In the opinion of the Committee, the entry into force goes back to the date when the State became independent.

[c] Succession.

[d] Although a declaration of succession has not been received, the people within the territory of the State - which constituted part of a former State party to the Covenant - continue to be entitled to the guarantees enunciated in the Covenant in accordance with the Committee's established jurisprudence (see Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40 (A/49/40), vol. I, paras. 48 and 49).

[e] For information on the application of the Covenant in Hong Kong, Special Administrative Region, People's Republic of China, see Official Records of the General Assembly, Fifty-first Session, Supplement No. 40 (A/51/40), chap. V, sect. B, paras. 78-85. For information on the application of the Covenant in Macao, Special Administrative Region, see A/55/40, chapter IV.

[f] Guyana denounced the Optional Protocol on 5 January 1999 and reacceded on the same day subject to reservations, with effect from 5 April 1999.

[g] Yugoslavia came into being on 27 April 1992 following the promulgation of the Constitution of the Federal Republic of Yugoslavia on that day. Yugoslavia nevertheless advised the Secretary-General on 27 April 1992 that it claimed to continue the international legal personality of the former Yugoslavia. Yugoslavia accordingly claimed to be a member of those international organizations of which the former Yugoslavia had been a member. It also claimed that all those treaty acts that had been performed by the former Yugoslavia were directly attributable to it, as being the same State (see documents S/23877 and A/46/915).

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UNITED NATIONS **E**

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Fifty-eighth session
Item 17 of the provisional agenda

PROMOTION AND PROTECTION OF HUMAN RIGHTS

Impunity

Report of the Secretary-General

I. INTRODUCTION

1. In its resolution 2000/70, the Commission on Human Rights requested the Secretary-General to seek the views of Governments and intergovernmental and non-governmental organizations on the issue of the possible appointment of an independent expert charged with examining all aspects of the issue of impunity of perpetrators of human rights violations, with a view to a decision on this matter at the fifty-eighth session of the Commission; it also requested the Secretary-General again to invite States to provide information on any legislative, administrative or other steps they have taken to combat impunity for human rights violations in their territory and on remedies available to the victims of such violations; and further requested the Secretary-General to collect the information and comments received pursuant to the resolution and to submit a report thereon to the Commission at its fifty-eighth session. The present report, which was prepared in accordance with resolution 2001/70, contains a summary of the replies received from Governments and intergovernmental and non-governmental organizations.

2. In response to the notes verbales and letters sent on 9 July 2001, information was received from the Governments of Argentina, Azerbaijan, Cuba, Guatemala, Norway and Peru and from the non-governmental organizations Association for the Prevention of Torture, International Commission of Jurists and International Union of Lawyers.

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II. REPLIES RECEIVED FROM GOVERNMENTS

Argentina

3. The Government of Argentina stated that it has been working to combat impunity for human rights violations in the country. The 1994 constitutional reform gave constitutional rank to human rights treaties, which may be invoked in the Argentine courts. The Republic of Argentina has ratified the Rome Statute of the International Criminal Court, which it regards as a key document for combating impunity. In the opinion of the Government of Argentina, an independent expert charged with examining all aspects of impunity should be appointed pending the entry into force of the Rome Statute. The Government also provided information on the national institutions and internal legal framework which guarantee the promotion and protection of human rights and combat impunity. It pointed out that the Nation and the provinces have concurrent jurisdiction for the administration of justice. Article 116 of the Constitution provides that the Supreme Court and the lower courts are empowered to hear and decide all cases relating to matters governed by the Constitution and the laws. Within the executive power, there are two areas with responsibility for human rights: the Office of the Under-Secretary for Human Rights within the Ministry of Justice and Human Rights and the Human Rights Department within the Ministry of Foreign Affairs. The objective of the first is the promotion and protection of human rights in the country and it implements or coordinates the following programmes: receipt of complaints of human rights violations and assistance for complainants, inter-institutional relations, the Federal Council of Human Rights (which coordinates policies for the promotion and guarantee of human rights between the federal and provincial governments), historical reparation (which processes benefits for former detainees and civilians tried by military courts until 1983), the National Commission for the Right to an Identity (which encourages the search for disappeared and kidnapped children) and the National Commission on the Forced Disappearances of Persons. The Office of the Procurator for the Prison System, which was established in June 1993 and whose function is to protect the human rights of detainees in the federal prison system, is also part of the executive branch. In July 1995, Congress adopted the act establishing the National Institute to Combat Discrimination, Xenophobia and Racism. Its purpose is to develop national policies and practical measures to combat discrimination, xenophobia and racism. The Government also pointed out that the two legislative chambers have both established commissions on human rights and guarantees, which have multiparty representation. Within the ambit of the legislature, Congress established the Ombudsman's Office in 1993. Its mandate is to protect the rights and interests of individuals and the community in respect of acts and omissions of the administration.

4. The Government of Argentina also provided information on the legal remedies available to citizens when their fundamental rights are violated. These remedies include amparo and habeas corpus. The remedy of amparo was introduced by a constitutional amendment and offers prompt and rapid action against any act or omission by public authorities or private individuals which actually or potentially infringes, restricts, jeopardizes or threatens rights and guarantees recognized in the Constitution, a treaty or a law in a manifestly arbitrary or illegal manner. An application for habeas corpus may be filed when the right infringed is physical liberty, in the event of the illegal worsening of the form or conditions of detention or in the case of the enforced disappearance of persons. The Government stated that an extraordinary appeal to the

Supreme Court of Justice may be made against final judgements in the cases referred to in Act No. 48. The case law of the Supreme Court has extended extraordinary appeal to cases of arbitrary judgements which violate the guarantee of the right to a defence. The Government also referred to the measures of compensation which are granted to victims of human rights violations in Argentina. A 1991 act provides for compensation for the victims of the most recent military dictatorship from 1976 to 1983 and their relatives. The Government stated that its initiative to compensate the victims of torture was based on the recommendations of the Committee against Torture. In December 1994, moreover, Congress adopted an act providing for "the granting of benefits to the rightful successors of individuals who were in a situation of enforced disappearance when the act was promulgated and to the successors of those who died as a result of action by the armed forces, the security forces or any paramilitary group prior to 10 December 1983". This and other measures referred to by the Government are part of the Government's progressive redress policy with regard to the events which immediately preceded the restoration of democracy.

Azerbaijan

5. The Government of Azerbaijan provided information on its domestic legislation relating to impunity and compensation, which includes the Constitution and various national laws. Article 68 of the Constitution states that the rights of a person who has been a victim of a crime or abuse of power are protected by law. "A victim shall have the right to take part in the proceedings and to apply for compensation for the loss or injury suffered. Every person shall be entitled to compensation from the State for loss or injury suffered as a result of unlawful acts or omissions by government bodies or officials." The Compensation Act of the Republic of Azerbaijan (loss or injury suffered by private individuals as a result of acts of preliminary investigation bodies, investigation bodies, the prosecution system and the courts) was adopted in December 1998 and states that compensation must be provided for loss or injury suffered by a person as a result of unlawful arrest, accusation, detention or conviction, unlawful holding and possession of property, individual searches and the unlawful imposition of administrative penalties (art. 1). The Act on Complaints to the Courts states that foreigners and stateless persons may submit complaints and applications to the appropriate courts according to the procedure provided for by law (art. 1). The State Protection Act of December 1998 lists measures to guarantee the safety and social protection of victims and witnesses in criminal cases.

Cuba

6. The Government of Cuba stated that it attaches great importance to the need to put an immediate end to impunity, in all countries and in all its manifestations, for the perpetrators of human rights violations. It considered it necessary to respect the holistic approach to combating impunity adopted at the World Conference on Human Rights, which was held in Vienna in 1993 and which affirmed that all human rights are universal, indivisible and interdependent and that the international community must treat human rights globally in a fair and equal manner. It rejected attempts to impose selective and differentiated treatment on the various categories of human rights and to characterize economic, social and cultural rights as "unenforceable". It strongly supported the immediate appointment of an independent expert to examine all aspects of the issue of impunity, but would object if the independent expert's mandate was to be restrictive

and discriminatory. The independent expert's work should extend beyond compiling and organizing existing legislation to formulating recommendations to the Commission for the progressive development of international standards. In carrying out his mandate, the independent expert must respect a set of basic principles to be embodied in the resolution requesting his appointment, including international cooperation based on Article 2 of the United Nations Charter, the condemnation of unilateral actions, respect for the key role of States in action to combat impunity and the obligation to determine the responsibility of the perpetrators of human rights violations as an essential component of effective compensation and international cooperation through universally applicable mechanisms. The Government stated its views on the most important work still to be done in combating impunity in future.

7. The Government also provided information on various legislative, administrative and other steps taken to combat impunity. It pointed out that the Provincial Court of the City of Havana had brought legal proceedings against the Government of the United States for compensation for injury to persons and damage to property. It also reported that the National Assembly of People's Power of the Republic of Cuba proclaimed the right of the Cuban people to call for the implementation of the Convention on the Prevention and Punishment of the Crime of Genocide in the case of the economic blockade against Cuba. It expressed regret that resolution 2001/70 had not been adopted by consensus and urged all parties to work for such a consensus in future.

Guatemala

8. The Government of Guatemala reported that it was aware of the need to combat impunity and recognized that that would be a lengthy and complex process. With regard to the possible appointment of an independent expert on impunity, it stated that the topic is too broad for one expert to deal with and, with specific reference to the case of Guatemala, where the causes of impunity have already been identified, said that it would be better for the existing thematic rapporteurs to include the topic of impunity in their work. It also provided detailed information on the legislative, administrative and other steps taken in Guatemala to combat impunity. As far as legislative measures are concerned, it referred to various provisions embodied in the Constitution, including the guarantee of free access to the courts and government agencies (art. 29), the institution of proceedings against offenders (art. 45) and the joint responsibility of the Government when a public official violates the law to the detriment of a private individual (art. 155). The independence of the judiciary is guaranteed by article 213 of the Constitution. The Penal Code punishes judges and prosecutors who do not fulfil their obligations "by maliciously failing to prosecute and try offenders", as well as judges who refuse to try a case on the grounds that the law is obscure, insufficient or silent (art. 469). In 1995, Congress amended the Penal Code by incorporating article 201 bis, which characterizes torture as an offence. Other articles characterize enforced disappearance and crimes against humanity as offences. The new Code of Criminal Procedure enacted in 1994 contains a number of positive elements, including article 116, which gives the victim or his representative the right to institute proceedings or become a party to proceedings already instituted by the Public Prosecutor's Department. "This right may be exercised by any citizen or association of citizens against public officials or employees who have directly violated human rights." At present, the Supreme Court is working

on additional amendments to criminal law and criminal procedural law. Decree Law No. 145 of 1996 (National Reconciliation Act) provides for the extinction of criminal responsibility for political or related ordinary offences which occurred during the armed conflict. However, it prohibits amnesty for acts which may not be pardoned or amnestied under national and international law, i.e. enforced disappearances, torture and genocide.

9. The Government also referred to the administrative and political measures adopted, including the demobilization of paramilitary groups and the reorganization of the army. In 1996, Congress amended the Military Code to provide that ordinary crimes or offences committed by members of the military are tried by the ordinary courts. The Government stated that it has adopted two main human rights objectives, namely, public safety and justice. The President of Guatemala indicated that the recommendations of the Commission on Historical Clarification will be implemented. To this end, the Secretariat for Peace has been established to work in cooperation with other national institutions. As a symbol of political will to combat impunity, the Government stated that the case of the murder of Bishop Gerardi has been solved and the persons responsible identified and punished. In June 2001, moreover, the Commission for Peace and Harmony was set up to coordinate action to bring about reconciliation between Guatemalans through the implementation of the recommendations of the Commission on Historical Clarification. The Government also stated that it has solved various cases amicably by recognizing its responsibility for violations of human rights and accepting the obligation to provide compensation for the victims. It said that it would comply with the reports and recommendations of the Inter-American Commission on Human Rights in relation to 44 cases of extrajudicial executions and 5 cases of enforced disappearance. The judiciary has also undertaken to reopen and investigate a number of emblematic cases involving impunity.

10. The Government also provided information on other action and steps taken to combat impunity, including the strengthening of human rights bodies such as the Office of the Human Rights Procurator, the Presidential Commission for Coordinating Executive Policy in the Field of Human Rights (COPREDEH), the Public Prosecutor's Department, the judiciary and the Human Rights Commission of the Congress of the Republic. The National Commission for Monitoring and Supporting the Strengthening of the Justice System was also set up "to support and strengthen institutions and help improve the system of justice in Guatemala". With regard to the work the Commission has carried out, the Government drew attention to the way in which it plans to solve the problem of the abuse of amparo proceedings in the system of justice. As to the Public Prosecutor's Department, the Government reported that priority has been given to the training of prosecutors and that the recommendations of the Special Rapporteur on the independence of judges and lawyers, Mr. Dato' Param Cumaraswamy, have been implemented by the establishment of a career judicial service, an anticorruption prosecutor's office and a complaints office within the Public Prosecutor's Department. The Government also listed a set of measures and achievements relating to prisons and the police. In 1997, Congress established a new National Civil Police, thereby raising the professional level of police officers and taking account of Guatemala's multilingual, multicultural and multi-ethnic nature. Within the police force, there is an Office of Professional Responsibility, which, together with the army high command, has expressed its genuine willingness to place persons from within its ranks who have been accused of human rights violations at the disposal of the competent authorities. The Government also provided information on the Plan for the Modernization of the Judiciary, which is being implemented with the approval of the Supreme Court of Justice.

11. The Government of Guatemala provided a great deal of information on the measures adopted to put an end to the intimidation of judges and other officials and persons involved in the administration of justice. It pointed out that, in 2000, the Supreme Court established the Service for the Protection of Witnesses and Persons Linked to the Administration of Justice and took measures, including coordination with the Public Prosecutor's Department and the National Police, to protect prosecutors and judges who received threats. A special prosecutor's office was appointed to investigate and follow up these cases and a committee on the safety of judges and magistrates has been established. Its objectives are to guarantee the safety of judges and magistrates and their families and to maintain a record of cases in order periodically to analyse the security measures to be taken, depending on the cases' seriousness. It spoke with judges and magistrates who had received threats or had been attacked, established a database and recommended relevant measures to guarantee the safety of judges. The Government also provided information on measures and action taken to reform and improve the administration of justice in the context of action to combat impunity, including judicial training and the establishment of a career judicial service. In 2000, the Supreme Court adopted regulations to give effect to the Career Judicial Service Act and the Judiciary Civil Service Act and subsequently set up a Career Judicial Service Council. A training programme is being implemented at the Judicial Training School to guarantee the competence of members of the judiciary, as well as a full and objective evaluation of their work. The Government also reported that effective and independent monitoring machinery has been set up to combat corruption in the judiciary without undermining the independence of judges and lawyers.

Norway

12. The Government of Norway recalled that, at the time of the adoption of resolution 2001/70 on impunity, it expressed some reservations about the wording used, inter alia, in paragraph 10. It stressed that only States have human rights obligations and that, consequently, no human rights violation as such may constitute a criminal offence. In relation to action to combat impunity, it is the responsibility of States to bring to justice those who have committed an offence, either under national law giving effect to a human rights obligation or under international law. International law establishes individual criminal responsibility for grave breaches of international humanitarian law, war crimes, crimes against humanity and genocide. Against this background, the Government stated that it is not in favour of the appointment of an independent expert on impunity with a mandate as formulated in paragraph 10 of resolution 2001/70.

13. The Government of Norway provided information on some legislative or administrative steps it has taken to combat impunity, pointing out that the legal implementation of Norway's human rights obligations is secured through criminal law and the criminal justice system. Victims of human rights violations may seek compensation from the State in accordance with rules which are partly codified in the Damages Act of June 1969 and others which are unwritten. In addition, the Act on Compensation to Victims of Violence was recently adopted in April 2001. It states that an individual who has suffered bodily harm as a result of intentional assault or another criminal offence involving violence or force, or his surviving relatives, may obtain compensation.

Peru

14. The Government of Peru stated that it was in favour of the possible appointment of an independent expert on impunity. It also provided a great deal of information on the legislative and other measures recently taken by the transitional Government. It stated that, by a supreme decision of June 2001, a national commission for the review and implementation of humanitarian law had been set up as a multisectoral advisory body to the Executive for the purpose of preparing studies and formulating recommendations on respect for international humanitarian law in Peru. It also submitted information on the establishment and work of the Pardons Commission, which was set up to review the cases of innocent persons imprisoned during the anti-terrorism campaign. After five years of work, the Pardons Commission has secured the release of 668 persons, thus implying public recognition of the judicial errors and irregularities committed by bad police officers, soldiers and judges. The Government noted that during Diego García Sayán's term of office as Minister of Justice, 155 pardons were granted last year alone, but about 1,916 applications are still under review, 560 of which are of a priority nature. At present, there is a ruling by the Constitutional Court of 30 October 2000 that requires Government officials who were subpoenaed to comply with the provisions on compensation contained in article 14, paragraph 6, of the International Covenant on Civil and Political Rights once the amount of compensation has been determined by the courts. The Government also reported that Peru signed the Rome Statute of the International Criminal Court on 7 December 2000 and that the process of ratification in Congress has already begun. The Government attaches great importance to the non-jurisdictional decisions and recommendations adopted by international human rights bodies. Under a supreme decree of December 2000, such decisions and recommendations must be handled in good faith and the National Human Rights Council was designated as the body responsible for coordinating their follow-up. A working group of the Council has prepared a report and a bill setting up the machinery for the implementation of such decisions and recommendations.

15. The Government also reported that a supreme decree of June 2001 established the Truth Commission, whose mandate is to help shed light on the crimes and human rights violations committed by terrorist organizations and State agents, to prepare proposals on moral and material reparations for victims and their families and to recommend legal and institutional reforms as preventive guarantees. The Truth Commission will focus on cases of murder and kidnapping, enforced disappearances, torture and serious injuries, violations of the collective rights of the country's Andean and indigenous communities and other crimes. It does not have judicial authority and will therefore not take over the functions of the judiciary or the Public Prosecutor's Department. Once in place, it will have 18 months in which to carry out its work, with the possibility of an extension. Its final report will be submitted to the President of the Republic and the heads of the other branches of government and will be published. The executive will take account of the Commission's recommendations insofar as they are compatible with the law.

16. The Government submitted additional information on the National Anti-Corruption Programme adopted by supreme decision of April 2001. The objectives of the programme are to prepare an analysis of corruption in the country, to propose the basic elements for the preparation of a national agenda for action to combat corruption and to lay the foundations for the

establishment of consultative bodies. The National Anti-Corruption Task Force worked for five months and prepared various reports and recommendations which were submitted to the President of the Republic. The Government stated that the anti-corruption campaign is being headed by the Ministry of Justice. In the context of the serious cases of corruption that have occurred in the past, Congress adopted various legislative measures that have speeded up action to combat corruption.

17. The Government also provided information on compliance with and the enforcement of judgements of the Inter-American Court of Human Rights. In nearly all these cases, compensation has been awarded to the victims or their relatives and/or investigations have been conducted to identify and punish the persons responsible for the violations. In the context of one of these cases, i.e. Castillo Petruzzi et al., Peru withdrew its declaration of acceptance of the jurisdiction of the Inter-American Court, but the Court declared the declaration invalid. Subsequently, the Peruvian Government reversed its decision and reaffirmed its willingness to accept the Court's jurisdiction and cooperate with it. In another case, the Inter-American Court stated that the amnesty laws enacted by the Peruvian Government are incompatible with the American Convention on Human Rights and therefore have no legal effect. In some cases, the compensation granted to the victims has included education and health services to be provided by the Government and the erection of a statue commemorating the victims, as well as guarantees of non-repetition, the publication of the judgement in the Diario Oficial, public excuses, the legal characterization of the crime of extrajudicial execution and the initiation of the process of signing and ratifying the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity.

18. The Peruvian Government described some of the legal and judicial action being taken against Vladimiro Montesinos, former national security adviser to former President Alberto Fujimori, in connection with various crimes, including corruption and serious human rights violations. In addition to Mr. Montesinos, 748 persons are being investigated and tried, including a number of senior military and police officials. The Government stated that such actions are the most important efforts that have ever been made in Peru's republican history to combat impunity. It also reported that National Human Rights Council has begun work on the preparation and implementation of a national plan for the protection and promotion of human rights.

III. REPLIES RECEIVED FROM NON-GOVERNMENTAL ORGANIZATIONS

19. The Association for the Prevention of Torture (APT) stated that the prevention of torture requires the effective resolution of the problem of impunity. It has therefore been supporting the work being done by the Commission on Human Rights and the Sub-Commission on the Promotion and Protection of Human Rights on the preparation of an effective set of principles for the protection and promotion of human rights through action to combat impunity. It thus considers that the appointment of an independent expert on the issue of impunity is a crucial step in further developing and implementing the work already undertaken. In its opinion, the independent expert should be entrusted with preparing an updated version of the set of principles for the protection and promotion of human rights through action to combat impunity, with a view

to its adoption by the Commission on Human Rights. The expert should also be entrusted with preparing a set of principles on the issue of impunity for violations of economic, social and cultural rights. APT also suggested that the independent expert should receive views and comments from States and intergovernmental and non-governmental organizations.

20. The International Commission of Jurists (ICJ) stated that it was cooperating in the work of the Sub-Commission on the Promotion and Protection of Human Rights on the issue of impunity and, in particular, with the two experts appointed to study the problem of impunity in relation to civil and political rights, on the one hand, and economic, social and cultural rights, on the other. It referred to its involvement in the process of the preparation of the draft set of principles for the protection and promotion of human rights through action to combat impunity, which includes developments in international law until 1997. It pointed out, however, that developments in the past four years should also be taken into account. It expressed surprise that the Commission on Human Rights should abruptly and inexplicably decide to interrupt its consideration of the draft set of principles and urged that it should resume its consideration of that draft with a view to its adoption. With regard to the possible appointment of an independent expert on the issue of impunity, the Commission stated that, as impunity is a complex topic, impunity for violations of civil and political rights and for violations of economic and social rights give rise to different problems and should be treated separately. The Commission therefore considered that the Commission on Human Rights should appoint two independent experts on impunity with separate mandates: one expert on the impunity of the perpetrators of violations of civil and political rights, with a mandate to update the draft set of principles, and another expert on the impunity of the perpetrators of violations of economic, social and cultural rights, with a mandate to carry out a more in-depth study of the issue and identify and propose international standards. The Commission also noted that impunity should continue to be considered by Commission on Human Rights special rapporteurs and thematic and geographical mechanisms.

21. The International Union of Lawyers welcomed and provided information on some of the significant developments that have taken place in international criminal justice in recent years. It drew attention to the pending establishment of a special court in Sierra Leone and the establishment in Cambodia of ad hoc courts to try the persons responsible for crimes committed during the period of the Democratic Kampuchea regime. These two courts differ from the criminal tribunals for the Former Yugoslavia and Rwanda in that they are set up as mixed systems with room for a national component. Article 5 of the draft statute for the special court in Sierra Leone describes other crimes, in addition to serious violations of humanitarian law, which are regarded as such in the country's internal law. Cooperation is also to be established between the court and the existing Truth and Reconciliation Commission. In the case of Cambodia, the draft memorandum of understanding between Cambodia and the United Nations, which was negotiated in July 2000, provides for the establishment of judicial divisions composed of local judges, with the participation of a prosecutor, an examining judge and foreign judges. In the Union's opinion, this practice reflects the rule that the jurisdiction of national courts should take precedence in the prosecution and punishment of persons responsible for serious violations of international criminal law. The Union also referred to the case of Rwanda, where the Government decided, in order to deal with the case overload represented by the more

than 100,000 prisoners awaiting trial, to use a traditional system of justice, *gacaca*, or "wise men's justice"; in the Union's opinion, this is an initiative that deserves support. With regard to the possible appointment of an independent expert on the issue of impunity, the Union stated that, assuming that such an appointment was appropriate, the expert's mandate should be defined to take account of the many possible types of action against impunity that may be adopted, depending on cultural, legal and judicial particularities. The expert's mandate should not be confined to legal matters, but should also take account of the ethical and moral aspects of the duty to remember the victims and provide redress.

22. The full text of the replies of these States and non-governmental organizations is available for consultation in the Secretariat files.

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PROMOTION AND PROTECTION OF HUMAN RIGHTS

Fundamental standards of humanity

Report of the Secretary-General submitted pursuant to Commission on Human Rights decision 2001/112

I. INTRODUCTION

1. In its decision 2001/112, the Commission on Human Rights, recalling its resolution 2000/69 and taking note of the report of the Secretary-General, decided to consider the question of fundamental standards of humanity at its fifty-eighth session and requested the Secretary-General, in consultation with the International Committee of the Red Cross (ICRC), to submit a further report to the Commission at its fifty-eighth session, covering relevant developments. The present report is submitted in accordance with that decision. The comments and advice of the ICRC in the preparation of the report are gratefully acknowledged.

2. As noted in previous reports (E/CN.4/2001/91, para. 4; E/CN.4/2000/94, paras. 7-12; E/CN.4/1999/92, para. 3; E/CN.4/1998/87, para. 8), the need to identify fundamental standards of humanity arises from the initial recognition that it is often situations of internal violence that pose the greatest threat to human dignity and freedom. However, the need for a statement of principles to be derived from human rights and international humanitarian law, which would apply to everyone in all situations, is clearly not limited to situations of internal emergency. This process aims at strengthening the practical protection of individuals through the clarification of uncertainties in the application of existing international humanitarian and human rights law at all levels (E/CN.4/2001/9, para. 4).

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3. Previous reports, in particular the last one, have observed that while there is no apparent need to develop new standards, there is a need to secure practical respect for existing international human rights and humanitarian law standards in all circumstances and by all actors. This may be achieved partly through the clarification of uncertainties in the application of existing standards in situations, which present a challenge to their effective implementation. A starting point in this process is the identification of fundamental standards of humanity in the practices and/or doctrine of States, international tribunals and organizations, non-State actors, and other bodies with responsibility for and/or expertise in the subject. In keeping with this approach, previous reports have looked at the practice of those actors in various dimensions, including the areas of implementation of human rights law and, where applicable, international humanitarian law in situations of internal strife and internal armed conflict.

4. The present report focuses on some of those areas and, additionally, looks at an area of traditional inter-State interaction, the field of State responsibility for internationally wrongful acts. The reason for adding the latter element to the review is that the application and respect for fundamental human rights and humanitarian law considerations in situations where States have defaulted on their international obligations has encountered some difficulties and has consequently become a matter of concern for international law and human rights bodies. In this regard, the recent work of the International Law Commission has shed light on the place and role of fundamental standards of humanity in imposing additional duties or limits on States' action.

5. The present report, therefore, focuses on the most recent developments in old and new areas that contribute to the process of improving the protection of individuals in all situations and the identification of fundamental standards of humanity. A key development has been the adoption in July 2001 by the Human Rights Committee of general comment No. 29 on article 4 of the International Covenant on Civil and Political Rights (ICCPR) (CCPR/C/21/Rev.1/Add. 11) which clarifies the application of human rights norms in situations of national emergencies. A second major development is the adoption, at second reading, by the International Law Commission of the Draft Articles on State Responsibility for Internationally Wrongful Acts. The report also considers the most recent rulings of the International Criminal Tribunals for the Former Yugoslavia and Rwanda that have helped to clarify the definition of crimes and/or contributed to the alignment of international humanitarian law norms, applicable in international and non-international armed conflicts.

II. RELEVANT DEVELOPMENTS IN INTERNATIONAL LAW

A. General comment No. 29 on Article 4 of the International Covenant on Civil and Political Rights.[1]

6. The question of derogations from human rights treaties has long been identified as one of the key issues regarding the protection of fundamental rights in internal crisis situations. The need to clarify the extent of permissible derogations by States from their obligations under human rights treaties has been central to the process of identifying fundamental standards of humanity in order to strengthen the protection provided to individuals in those situations. The Human Rights Committee's general comment No. 29 on article 4 of the ICCPR makes an important contribution to this process.

7. The purpose of the adoption of general comments by the Human Rights Committee is to assist States with the implementation of their obligations under the Covenant.[2] The drafting of the general comment on article 4 of the ICCPR lasted for several years partly as a result of the importance and complexity of the subject. The general comment No. 29 replaces general comment No. 5 adopted in 1981. In adopting the general comment the Committee made an important contribution to the clarification of States' obligations under the Covenant in circumstances of internal strife or public emergency. The main contents of general comment No. 29 may be summarized in the following terms.

8. In order to invoke article 4, two conditions must be met. First, there must be a situation that amounts to a public emergency that threatens the life of the nation and, second, the state of emergency should be proclaimed officially and in accordance with the constitutional and legal provisions that govern such proclamation and the exercise of emergency powers (para. 2). Even during armed conflict, measures derogating from the Covenant "are allowed only if and to the extent that the situation constitutes a threat to the life of the nation" (para. 3).

9. The Committee observed that measures derogating from the Covenant should comply with requirements set out in the Covenant itself. One fundamental requirement is that those measures be limited to the extent strictly required by the exigencies of the situation. "[T]his will ensure that no provision of the Covenant, however validly derogated from, will be entirely inapplicable to the behaviour of a State party" and will also reflect the principle of proportionality (para. 4). In many situations of emergency, normal limitations of rights would be sufficient under the circumstances and no derogation from the provisions in the Covenant would be justified by the exigencies of the situation[3] (para. 5).

10. Paragraph 1 of article 4 of the ICCPR requires that measures derogating from the Covenant do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. The Committee noted that even though article 26 or other Covenant provisions related to non-discrimination have not been listed among the non-derogable provisions of article 4, paragraph 2, "there are elements or dimensions of the right to non-discrimination that cannot be derogated from in any circumstances" (para. 8).

11. As to the requirement in paragraph 1 that measures derogating from the Covenant are not inconsistent with States' other obligations under international law, the Committee stated that "article 4 cannot be read as justification for derogation from the Covenant if such derogation would entail a breach of the State's other international obligations, whether based on treaty or general international law" (para.9). Further, "in exercising its functions under the Covenant the Committee has the competence to take a State party's other international obligations into account when it considers whether the Covenant allows the State party to derogate from specific provisions of the Covenant" (para. 10).

12. The Committee has also shed some light on the relationship between the non-derogable rights in the Covenant and peremptory norms of international law. Although it distinguished the issues of non-derogability from the peremptory nature of some norms, the Committee recognized also that "[T]he proclamation of certain provisions of the Covenant as being of a non-derogable nature ... is to be seen partly as a recognition of the peremptory nature of some fundamental rights ensured in treaty form in the Covenant" (para. 11). Moreover, "States parties may in no

circumstances invoke article 4 of the Covenant as justification for acting in violation of humanitarian law or peremptory norms of international law..." (para. 11). Furthermore, in assessing the scope of legitimate derogation from the Covenant, the Committee has found an important criterion in the definition of certain human rights violations as crimes against humanity. "If action conducted under the authority of a State constitutes a basis for individual criminal responsibility for a crime against humanity by the persons involved in that action, article 4 of the Covenant cannot be used as a justification that a state of emergency exempted the State in question from its responsibility in relation to the same conduct" (para. 12).

13. The Committee has also identified elements in the provisions not listed in article 4, paragraph 2, that are non-derogable owing to their character as norms of general international law. Those provisions include the right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person, the prohibition against taking hostages, abductions or unacknowledged detention, certain elements of the rights of minorities to protection, the prohibition of deportation or forcible transfer of population, the prohibition of propaganda for war and of advocacy of national, racial or religious hatred that would constitute incitement to discrimination, hostility or violence (para. 13).

14. Even if not mentioned as a non-derogable provision in article 4, the obligation to provide effective remedies for any violation of the provisions of article 2, paragraph 3, of the Covenant must be always complied with (para. 14). The protection of those rights recognized as non-derogable require procedural guarantees, including judicial guarantees. Therefore, "the provisions of the Covenant relating to procedural safeguards may never be made subject to measures that would circumvent the protection of non-derogable rights. Article 4 may not be resorted to in a way that would result in derogation from non-derogable rights" (para. 15). Furthermore, as certain elements of the right to fair trial are guaranteed under international humanitarian law during armed conflict, there would be no justification for derogations during other emergency situations. "The principles of legality and the rule of law require that fundamental requirements of fair trial must be respected during a state of emergency. Only a court of law may try and convict a person for a criminal offence. The presumption of innocence must be respected. In order to protect non-derogable rights, the right to take proceedings before a court to enable the court to decide without delay on the lawfulness of detention must not be diminished by a State party's decision to derogate from the Covenant" (para. 16). In this regard, the Committee noted that remedies such as habeas corpus or amparo should not be restricted by derogations under article 4.

15. By clarifying the content and scope of article 4 of the Covenant, the Committee aims at enhancing the protection of fundamental human rights in times of emergency that threatens the life of the nation. The practice of States parties to the Covenant in this regard will be subject to scrutiny by the Committee under stringent conditions to ensure that the conditions for lawful derogation are fulfilled.

B. Draft articles on Responsibility of States for internationally wrongful acts

16. At its fifty-third session, the International Law Commission (ILC) adopted, at second reading, the draft articles on Responsibility of States on which it had been working since 1955.[4] The draft articles were provisionally adopted at first reading in 1996 and have been regarded

since then as a primary source of reference in international law in the area of State responsibility. The adopted draft articles, which have been sent to the General Assembly for consideration, codify and progressively develop the rules under which State responsibility for internationally wrongful acts arises and those rules governing the implementation of the legal consequences arising from the commission of an internationally wrongful act. Several issues and concepts are relevant for the process of fundamental standards of humanity in that they may strengthen the protection of fundamental human rights and humanitarian law norms in the context of the identification and implementation of States' international responsibility for acts unlawful under international law. The rules in the draft articles focus on the responsibility of States vis-à-vis other States and not on individual responsibility. However, through the identification and development of specific rules applicable in the area, the rules in the draft articles strengthen the practical protection of individuals and populations in the context of inter-State interaction. The rules of the draft articles reveal the central place assigned to the protection of fundamental human rights and humanitarian law norms in the context of inter-State relations and by so doing contribute to the process of securing the practical respect of fundamental standards of humanity in all circumstances.

17. In the light of the above, three sections of the draft articles may be of special relevance for the process of fundamental standards of humanity. The first one is chapter V of Part One on circumstances precluding the wrongfulness of an act of a State. The second is chapter III of Part Two which contains the rules on serious breaches of obligations under peremptory norms of general international law. The third is, Part Three, chapter I, on invocation of the responsibility of a State and chapter II on countermeasures.

18. In Part One, chapter V, the draft articles deal with the issue of circumstances precluding wrongfulness as justifications or excuses for a State's non-compliance with its international legal obligation while the circumstance in question subsists.[5] The circumstances that would make lawful an act that otherwise would be contrary to international law are consent, self-defence, countermeasures in respect of an internationally wrongful act, force majeure, distress and necessity. In this context, article 26 makes it clear that "nothing in [the] chapter precludes the wrongfulness of any act of a State which is not in conformity with an obligation arising under a peremptory norm of general international law". Therefore, none of the circumstances precluding wrongfulness listed in chapter V would justify or excuse a breach of a State's obligations under a peremptory rule.[6] The ILC list of peremptory norms includes the prohibition of aggression and human rights and humanitarian law norms such as the prohibition of "genocide, slavery, racial discrimination, crimes against humanity and torture, and the right to self-determination".[7]

19. Part Two, chapter III, deals with serious breaches of obligations under peremptory norms of general international law. This Part replaces article 19 of the 1996 draft articles on international crimes of States[8] and reflects the principle that there are certain consequences flowing from the basic concepts of peremptory norms of general international law and obligations to the international community as a whole in the field of State responsibility.[9] Those consequences are divided into two categories. First, serious breaches of those obligations can attract additional consequences, not only for the responsible State but also for all others. Secondly, all States are entitled to invoke responsibility for breaches of obligations to the international community as a whole[10]. The commentary to article 40 offers some examples of those peremptory norms whose breach entails the special consequences listed in article 41.

Apart from those obligations already listed in the commentaries to other articles, the ILC mentions the prohibition against torture as defined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the basic rules of international humanitarian law applicable in armed conflict described by the International Court of Justice as "intransgressible" in character.[11]

20. Accordingly, article 41 attaches some particular consequences to those serious breaches. First, it identifies a positive obligation for States to cooperate to bring to an end through lawful means any serious breach of obligations under peremptory norms of general international law. Secondly, it restates a duty for States to abstain from recognizing as lawful a situation created by a serious breach and not to render aid or assistance to the wrongdoing State in maintaining that situation.[12] However, the obligation of non-recognition should not result in depriving the people of the States affected from the advantages derived from international cooperation;[13] that is to say, the sanction of non-recognition should never affect the basic rights of the population.

21. Article 41 also makes it clear that its enumeration of consequences flowing from the commission of a serious breach does not prejudice other consequences that a serious breach of a peremptory norm may entail under international law.

22. Part Three of the draft articles deals with the implementation of the international responsibility of a State in terms of how to give effect to the obligations of cessation of the wrongful act and reparation of the injury as well as in terms of the rights and duties of other States in the face of a breach of an international obligation. Chapter I, article 48, recognizes the right of a State other than the injured State to invoke responsibility of another State that has breached an international obligation if "(b) The obligation breached is owed to the international community as a whole". The purpose of this provision is to give effect to the distinction made by the International Court of Justice between obligations owed to particular States and those owed to the international community as a whole.[14] The State invoking responsibility under article 48 would not be acting in its individual capacity by reason of having suffered injury but in its capacity as a member of a group of States to which the obligation is owed, or indeed as a member of the international community as a whole.[15] Article 48, paragraph 2, limits the claims that a State other than an injured State may make to (a) cessation of the wrongful act, assurances and guarantees of non-repetition and (b) reparation "in the interest of the injured State or of the beneficiaries of the obligation breached". Although the ILC admitted that a list of those obligations owed to the international community as a whole would be of limited value as the scope of the concept is evolving, it nevertheless referred to the judgement of the International Court of Justice in the *Barcelona Traction* case that mentions the prohibition of aggression and genocide as well as the "principles and rules concerning the basic rights of the human person, including protection from slavery and racial discrimination"[16] within the purview of those obligations.[17]

23. Chapter II of Part Three deals with the use of countermeasures as a response to wrongful acts with the aim of establishing rules to prevent its abusive use by States. Countermeasures are defined as measures which would otherwise be contrary to the international obligations of an injured State vis-à-vis the responsible State if they were not taken by the former in response to an internationally wrongful act by the latter in order to procure cessation and reparation.[18]

Therefore, the right to take countermeasures accrues only to the injured State. However, this right is not unqualified, and article 50 specifies certain obligations the performance of which may not be impaired by countermeasures. Among those obligations that "are sacrosanct" are obligations for the protection of fundamental human rights, and obligations of humanitarian character prohibiting reprisals. In restating those prohibitions, the ILC made reference to the jurisprudence of international tribunals, the legal doctrine and also the practice of bodies in charge of the supervision of human rights treaties. In particular, mention is made of general comment No. 8 of the Committee on Economic, Social and Cultural Rights (E/C.12/1997/8) that discussed the effect of economic sanctions on civilian populations and especially children. The general comment stressed that "whatever the circumstances, such sanctions should always take full account of the provisions of the International Covenant on Economic, Social and Cultural Rights" (para. 1).[19]

24. The draft articles constitute an important contribution to the clarification of international humanitarian law norms in the context of States' responsibility for internationally wrongful acts. Through its work of codification and development of the rules on State responsibility for breaches of human rights and humanitarian law obligations and the legal consequences flowing from such breaches, including the rights of other States to take action and the limitations to the right to take countermeasures, the ILC draft articles has indirectly reinforced the protection of human rights and international humanitarian law. The breach of certain international human rights and humanitarian law obligations not only always give rise to responsibility for States but also raises positive duties to take action to counter those breaches. Further, action by States in the context of implementation of the responsibility of other States by, for instance, adoption of countermeasures, should always respect fundamental human rights and humanitarian law norms.

C. The recent jurisprudence of the International Criminal Tribunals

25. The jurisprudence of the International Criminal Tribunals for the Former Yugoslavia (ICTY) and Rwanda (ICTR) continue to contribute to the development of international humanitarian law and international criminal law, which in turn contributes to the process of identifying and/or clarifying fundamental standards of humanity applicable to everyone and in all circumstances. This has been achieved in particular through the developments related to the scope of individual criminal responsibility and the definition of crimes within the jurisdiction of the two ad hoc International Criminal Tribunals.

1. Individual criminal responsibility

26. By clarifying and developing the content and scope of individual criminal responsibility and that of command responsibility for violations of international humanitarian law, the ad hoc criminal tribunals may have also reinforced the protection of human beings in contexts other than armed conflict.

27. The meaning and scope of individual criminal responsibility and command or superior responsibility have been developed in recent rulings by the ICTY. The relationship between individual direct responsibility under article 7(1) and command responsibility under article 7(3) of the ICTY Statute has been addressed in several cases. The ICTY has expressed the view that in cases where the evidence presented demonstrates that a superior would not only have been

informed of subordinates' crimes committed under his authority, but also exercised his powers to plan, instigate or otherwise aid and abet in the planning, preparation or execution of these crimes, the type of criminal responsibility incurred may be better characterized as direct individual criminal responsibility under article 7(1) than under article 7(3) as command responsibility. Any responsibility under article 7(3) is subsumed under article 7(1), and the same would apply to the commander who incurs criminal responsibility under the joint criminal enterprise doctrine through the physical acts of his subordinates.[20] Moreover, "[w]here the omissions of an accused in a position of superior authority contribute (for instance by encouraging the perpetrator) to the commission of a crime by a subordinate, the conduct of the superior may constitute a basis for liability under article 7(1)".[21]

28. The recent jurisprudence of the International Criminal Tribunals has reaffirmed the three elements necessary for superior criminal responsibility to arise: (i) the existence of a superior-subordinate relationship; (ii) the superior knows or has reason to know that the criminal act is about to be or has been committed; and (iii) the superior fails to take necessary and reasonable measures to prevent the criminal act or to punish the perpetrator.[22] This jurisprudence also suggests that no formal superior-subordinate relationship is required for a finding of "ordering" so long as it is demonstrated that the person accused possessed the authority to order. Only those superiors (whether de jure or de facto, military or civilian) who are directly or indirectly part of a chain of command and have effective control over subordinates, with the actual power to control or punish their acts, may incur criminal responsibility.[23] The existence of a position of authority must be assessed on the basis of the reality of the accused's authority.

29. In this context, Trial Chamber II of the ICTY observed in the Prosecutor v. Kunarac et al case that "[d]epending on the circumstances, a commander with superior responsibility under article 7(3) may be a colonel commanding a brigade, a corporal commanding a platoon or even a rankless individual commanding a small group of men".[24] as long as they exercise effective control over their subordinates. It also held the view that "[b]oth those permanently under an individual's command and those who are so only temporarily or on an ad hoc basis can be regarded as being under the effective control of that particular individual".[25]

30. As an important development in this area, the ICTR upheld the conviction for genocide of Jean Kambanda, former Prime Minister of Rwanda. He was the first former Head of Government ever to be convicted of genocide.[26] In the Krstic case, the ICTY achieved the first conviction and sentence for genocide after the Second World War in the person of a former Bosnian Serb General.[27]

2. Crimes under international law

War crimes (ICTY Statute, art. 3)

31. In Prosecutor v. Delalic et al, the Appeals Chamber confirmed the views held in Prosecutor v. Tadic as regards the scope and status of common article 3 of the Geneva Conventions of 1949. Further, it considered "indisputable that common article 3, which sets forth a minimum core of mandatory rules, reflects the fundamental humanitarian principles which underlie international humanitarian law as a whole. These principles had already become customary law at the time of the adoption of the Geneva Conventions because they reflect the

most universally recognized humanitarian principles" that are applicable in international and internal armed conflicts.[28] "It is these very principles that the ICJ [International Court of Justice] considered as giving expression to fundamental standards of humanity applicable in *all* circumstances",[29] the Appeals Chamber concluded.

Crimes against humanity (ICTY Statute, art. 5)

32. In Prosecutor v. Kunarac et al, Trial Chamber II of the ICTY discussed the different elements of "an attack directed against any civilian population" as part of the definition of crimes against humanity under article 5 of the ICTY Statute. In the understanding of the Trial Chamber the mental element requires that the perpetrator know of the attack and that its act is part of it although he does not need to know the details of the attack. The Trial Chamber also stated that "as a minimum, the perpetrator must have known or considered the possibility that the victim of his crime was a civilian", and stressed that "in case of doubt as to whether a person is a civilian, that person shall be considered to be civilian".[30]

33. In Prosecutor v. Kunarac et al the ICTY has also clarified the elements of the crime of rape within the meaning of articles 3 and 5 of its Statute. In principle, the Trial Chamber agreed with the definition given by the Trial Chamber in the Furundzija case, but considered it necessary to clarify its understanding of the second element of the definition. In the Furundzija case the Trial Chamber stated that the act of sexual penetration would constitute rape only if accompanied "by coercion or force or threat of force against the victim or a third person".[31] The Trial Chamber in the Kunarac case considered that such definition is "in one respect more narrowly stated than is required by international law" in that it does not refer to other factors which would render an act of sexual penetration non-consensual or non-voluntary.[32] In the Kunarac case the Trial Chamber adopted a broader view and defined the *actus reus* of the crime of rape in international law as sexual penetration that "occurs without the consent of the victim". The Trial Chamber stressed that "consent for this purpose must be given voluntarily, as a result of the victim's free will, assessed in the context of the surrounding circumstances".[33]

34. The Trial Chamber in the Kunarac case also discussed the meaning and scope of the crime of torture in international humanitarian law. In its attempt to provide for a definition of torture under international humanitarian law, the Trial Chamber considered "crucial structural differences" between international human rights law and international humanitarian law[34] and departed from a previous definition adopted by the Trial Chamber in the Delalic et al case and Furundzija case. In those cases the judges had considered that the definition of torture in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984 reflects a consensus that is representative of customary international law.[35] The Trial Chamber in the Kunarac case held the view that the definition contained in the Torture Convention was intended to apply only in the context and for the purposes of the Convention and cannot be regarded as customary law. The definition in the Torture Convention was also meant to apply only to the extent that other international instruments or national laws did not give the individual broader or better protection.[36] In the view of the Trial Chamber, the definition of torture under international humanitarian law does not comprise the same elements as the definition used in human rights law. In particular, "the presence of a State official or of any other authority-wielding person in the torture process is not necessary for the offence to be regarded as torture under international humanitarian law".[37] According to the Trial Chamber, the

offence of torture in customary international humanitarian law comprises the following elements: (i) infliction, by act or omission, of severe pain or suffering, whether physical or mental; (ii) intentional acts or omissions; (iii) acts or omissions whose aim is to obtain information or a confession, or to punish, intimidate or coerce the victim or a third person, or to discriminate, on any ground, against the victim or third person".[38] From the discussion of the matter undertaken by the Trial Chamber it is obvious that the adoption of a different definition of torture in international humanitarian law does not supersede the definition of torture under the human rights instruments. On the contrary, both definitions may coexist inasmuch as they operate in different contexts and purposes, providing protection to the individuals in different circumstances.

35. The Trial Chamber also defined for the first time in the Kunarac case the crime of enslavement as a crime against humanity under article 5 of the ICTY Statute, but made it clear that its definition in the instant case was not intended to be exhaustive as it related only to the charges concerning the treatment of women and children and allegations of forced or compulsory labour or service. The Trial Chamber considered various sources, including international humanitarian law and human rights law, and adopted a definition of enslavement as an offence under customary international law. It found that "the *actus reus* of the violation is the exercise of any or all of the powers attaching to the right of ownership over a person. The *mens rea* of the violation consists in the intentional exercise of such powers".[39]

36. In Prosecutor v. Kordic the Trial Chamber also defined for the first time the crime of imprisonment as a crime against humanity. It held the view that the term imprisonment in article 5 of the ICTY Statute "should be understood as arbitrary imprisonment, that is to say, the deprivation of liberty of the individual without due process of law, as part of a widespread or systematic attack directed against a civilian population".[40] The Trial Chamber concluded that the imprisonment of civilians is unlawful if they have been detained in contravention of article 42 of the Fourth Geneva Convention, without respect to the procedural safeguards of article 43 of the same Convention - even where the initial detention was justified and the acts occur as part of a widespread or systematic attack directed against a civilian population.[41]

37. The crime of outrages upon personal dignity was discussed as an offence within the meaning of article 3 of the ICTY Statute in Prosecutor v. Kunarac. In this case the Trial Chamber recalled the definition given in the Aleksovski case in which it considered as one element of the offence that it must cause real and lasting suffering to the individual arising from humiliation or ridicule. The Trial Chamber did not agree with the requirement of "lasting suffering" in the definition. "So long as the humiliation or degradation is real and serious, the Trial Chamber [could] see no reason why it would also have to be 'lasting'". In the view of the Trial Chamber, "it is not open to regard the fact that a victim has recovered or is overcoming the effects of such an offence as indicating of itself that the relevant acts did not constitute an outrage upon personal dignity".[42] In the instant case, the Trial Chamber adopted a definition of the offence of outrages upon personal dignity as requiring: (i) that the accused intentionally participated in an act or omission which would be generally considered to cause serious humiliation, degradation or otherwise be a serious attack on human dignity ; and (ii) that he knew that the act or omission could have that effect.[43]

Genocide (ICTY Statute, art. 4)

38. In Prosecutor v. Krstic the Trial Chamber shed some light on the *mens rea* in the offence of genocide. It distinguished between the individual intent of the accused and the intent involved in the conception and commission of the crime. "The gravity and the scale of the crime of genocide ordinarily presume that several protagonists were involved in its perpetration. Although the motive of each participant may differ, the objective of the criminal enterprise remains the same. In such cases of joint participation, the intent to destroy, in whole or in part, a group as such must be discernible in the criminal act itself, apart from the intent of particular perpetrators". It will only be necessary to establish whether the accused shared the intention that genocide be carried out.[44] Accordingly, two elements were identified as components of the special intent requirement of the crime of genocide. First, the act or acts must target a national, ethnical, racial or religious group and second, they must seek to destroy all or part of that group. As to the second element, and for the purposes of the instant case, the Trial Chamber adhered to the characterization of genocide as encompassing "only acts committed with the *goal* of destroying all or part of a group".[45] Further, "[a]rticle 4 of the Statute does not require that the genocidal acts be premeditated over a long period. It is conceivable that, although the intention at the outset of an operation was not the destruction of a group, it may become the goal at some later point during the implementation of the operation"[46]. Since the facts in the Krstic case involved primarily the killing of Bosnian Muslim men of military age, the Trial Chamber had to deal with the question of whether the intent to destroy them qualified as an "intent to destroy the group in whole or in part". In this regard the Trial Chamber held the view that "the intent to destroy a group, even if only in part, means seeking to destroy a distinct part of the group as opposed to an accumulation of isolated individuals within it. Although the perpetrators of genocide need not seek to destroy the entire group protected by the Convention, they must view the part of the group they wish to destroy as a distinct entity which must be eliminated as such".[47]

Fair trial and procedural rights

39. The jurisprudence of the International Criminal Tribunals has also contributed to the identification of certain human rights as part of customary law or as norms of peremptory character. In a judgement on allegations of contempt against defence counsel in Prosecutor v. Tadic, the Appeals Chamber held the view that the Rules of Procedure and Evidence of the International Tribunal should be interpreted in conformity with the Statute of the Tribunal, which in turn must respect the internationally recognized standards regarding the rights of the accused. The Appeals Chamber considered that article 14 of the International Covenant on Civil and Political Rights, which includes the recognition of the right to appeal a conviction, "reflects an imperative norm of international law to which the Tribunal must adhere".[48]

III. CONCLUDING REMARKS

40. In the period covered by the present report there have been substantive developments in the process of clarifying uncertainties in the application of international human rights and international humanitarian law, and in identifying fundamental standards of humanity at various different levels. To a great extent, the developments in the area are the result of the interplay between different sources of law and the practice of different actors at various levels. In this

context, it is worth noting the creative manner in which human rights law, international humanitarian law, international criminal law and general public international law have been used to define or clarify the content of international crimes, non-derogable rights or peremptory norms of general international law. For instance, the Human Rights Committee's general comment No. 29 on article 4 of the ICCPR has used concepts and definitions of international humanitarian law and customary international law to identify the provisions in the ICCPR that are non-derogable. Likewise, the International Law Commission has put strong emphasis on international human rights and international humanitarian law rules to define some of the rules applicable in the context of State responsibility, in particular to define those obligations flowing from customary international law and norms of peremptory character. It is expected that future developments in the area will continue to draw on the progress made in the various branches of general international law to identify fundamental standards of humanity.

41. As stated in previous reports, there remain some issues requiring further discussion and clarification. Although substantial progress has been made in clarifying issues considered unresolved in previous reports, in particular the general comment on article 4 of the ICCPR which constitutes a great contribution in that regard, important areas still await further consideration and clarification. The ICRC study on customary rules of international humanitarian law, which is in its final stage of preparation, will be a key element in this process.

Notes

[1] Article 4 of the ICCPR reads as follows:

> "1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.
>
> "2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.
>
> "3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation."

[2] "The purpose of these general comments is to make [the Committee] experience available for the benefit of all States parties in order to promote their further implementation of the Covenant; to draw their attention to insufficiencies disclosed by a large number of reports; to suggest

improvements in the reporting procedure and to stimulate the activities of these States and international organizations in the promotion and protection of human rights". Report of the Human Rights Committee, Official Records of the General Assembly, Thirty-sixth Session, supplement No. 40 (A/36/40), annex VII.

[3] In international law doctrine a derogation clause in a treaty permits the State party to suspend or breach certain of its obligations in circumstances of war or public emergency. By contrast, limitations upon the exercise of rights are normally permitted for the purpose of securing respect for the rights of others. For instance, article 29.2 of the Universal Declaration of Human Rights states: "In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society". See Rosalyn Higgins "Derogations under human rights treaties" *The British Yearbook of International Law, vol. 48* (1976-77) pp. 281- 283.

[4] Report of the International Law Commission on the work of its fifty-third session, Official Records of the General Assembly, Fifty-Sixth session, Supplement No. 10 (A/56/10), chap. IV, sect. E.

[5] Commentary to chapter V, para. 2.

[6] Commentary to article 26, para. 6.

[7] Ibid., para. 5.

[8] In this regard, the ILC quoted the decision of the International Criminal Tribunal for the Former Yugoslavia relating to the subpoena duces tecum in the Prosecutor v. Blaskic case, in which it stated "[u]nder present international law it is clear that States, by definition, cannot be the subject of criminal sanctions akin to those provided for in national criminal systems" (paragraph 6 of commentary to chapter III of Part Two).

[9] Commentary to chapter III, para. 7.

[10] Ibid.

[11] Commentary to article 40, para. 5.

[12] Commentary to article 41, para. 4.

[13] Ibid., para. 10

[14] Commentary to article 48, para. 8.

[15] Ibid., para. 1.

[16] Barcelona Traction, Light and Power Company, Limited, Second Phase, I.C.J. reports 1970, para. 29.

[17] Commentary to article 48, para. 10.

[18] Commentary to chapter II, para. 1.

[19] Commentary to article 50, para. 7.

[20] Prosecutor v. Kordic and Cerkez, case No. IT-95-14/2-T, Judgement of the Trial Chamber, of 26 February 2001, para.371; Prosecutor v. Krstic, case No. IT-98-33-T, Judgement of the Trial Chamber of 2 August 2001, para. 605.

[21] Prosecutor v Kordic and Cerkez, para. 371

[22] Prosecutor v. Delalic, et al (Celebici), case No. IT-96-21-A Appeals Chamber, Judgement of 20 February 2001, paras. 189-198; Prosecutor v. Kunarac et al, case Nos. IT-96-23-T and IT-96-23/1-T, Judgement of 22 February 2001, para. 395; Prosecutor v. Krstic, para. 604; Prosecutor v. Kordic, para. 418.

[23] Prosecutor v. Kordic, para. 416 and para. 840; Prosecutor v. Delalic et al, (Celibici), paras. 193, 197, 198, 256; Prosecutor v. Kunarac et al, para. 396.

[24] Prosecutor v. Kunarac et al, para. 398.

[25] Ibid., para. 399.

[26] Prosecutor v. Kambanda, case ICTR 97-23, Appeals Chamber Judgement of 19 October 2000.

[27] Prosecutor v. Krstic, op. cit.

[28] Prosecutor v. Delalic et al, para. 143.

[29] Ibid., para. 144.

[30] Prosecutor v. Kunarac, para. 435.

[31] Prosecutor v. Furundzija, case No. IT-95-17/1, Trial Chamber Judgement of 10 December 1998, para. 185.

[32] Prosecutor v. Kunarac, para. 438.

[33] Ibid., para. 460.

[34] Ibid., para. 470.

[35] Article 1(1) of the Torture Convention reads as follows: "For the purposes of this Convention, the terms 'torture' means any act by which severe pain and suffering …is intentionally inflicted upon a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third party has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discriminations of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity…".

[36] Prosecutor v. Kunarac, para. 482.

[37] Ibid., para. 496.

[38] Ibid., para. 497.

[39] Ibid.,paras. 539-540.

[40] Prosecutor v. Kordic, para. 302.

[41] Ibid., para. 303.

[42] Prosecutor v. Kunarac, para. 501.

[43] Ibid., para. 514.

[44] Prosecutor v. Krstic, para. 549.

[45] Ibid., para. 571.

[46] Ibid., para. 572.

[47] Ibid., para. 590.

[48] Prosecutor v.Tadic, Appeal Judgement on allegations of contempt against prior counsel, Milan Vujin, Judgement of 27 February 2001.

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PROMOTION AND PROTECTION OF HUMAN RIGHTS: INFORMATION AND EDUCATION

Implementation of the Plan of Action of the United Nations Decade for Human Rights Education, 1995-2004

Report of the High Commissioner

I. INTRODUCTION

1. The present report is submitted in accordance with Commission resolution 2001/61. Since the last session of the Commission, the High Commissioner reported on the implementation of the Plan of Action of the United Nations Decade for Human Rights Education to the General Assembly (A/56/271). Accordingly, this report provides only supplementary information received in the period from mid-July to November 2001 in response to the notes verbales and letters addressed in May 2001 to all Governments and intergovernmental and non-governmental organizations, drawing their attention to General Assembly resolution 55/94 and to Commission on Human Rights resolution 2001/61 and soliciting information on their implementation. The report also includes information on related activities undertaken by the Office of the High Commissioner for Human Rights (OHCHR) in this period.

2. This report follows the structure of the Plan of Action, whose programme for implementation seeks to: assess needs and formulate effective strategies for human rights education (component 1); strengthen programmes and capacities for human rights education at the international, regional, national and local levels (components 2-5); develop in a coordinated way effective human rights education materials (component 6); strengthen the role and capacity of the mass media in the furtherance of human rights education (component 7); and disseminate globally the Universal Declaration of Human Rights (component 8). This report highlights the advances in those components for which OHCHR has received related information.

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II. IMPLEMENTATION OF THE PLAN OF ACTION OF THE UNITED NATIONS DECADE FOR HUMAN RIGHTS EDUCATION

A. Components 2 and 3: strengthening international and regional programmes and capacities for human rights education

1. Office of the United Nations High Commissioner for Human Rights

3. In line with the recommendations of the mid-term global evaluation of the Decade and relevant resolutions of the General Assembly and the Commission on Human Rights, the contribution of OHCHR to the Decade's objectives has continued to focus on the following courses of action.

Ensuring basic worldwide coordination for the Decade

4. The Office has continued to disseminate information on the Decade and on human rights education in general by answering related inquiries from interested representatives of Governments, intergovernmental and non-governmental organizations, academic institutions and others. A page of the OHCHR Web site specifically related to the Decade is periodically updated in order to disseminate related information.

Facilitating networking and information-sharing among the Decade's actors

5. OHCHR has continued to develop its database on human rights education (available through the OHCHR Web site at http://www.unhchr.ch/hredu.nsf) as well as its resource collection on human rights education, which includes materials for human rights education and training produced at all levels and which is publicly accessible at OHCHR headquarters in Geneva (details on these two projects are provided in the report to the General Assembly).

6. In addition, OHCHR has organized international and regional activities focusing on human rights education or with a human rights education component. At the International Conference on Human Rights and Democratization in Europe, Central Asia and the Caucasus (Dubrovnik, 8-10 October 2001), representatives of relevant Governments, as well as observers from intergovernmental organizations, national human rights institutions and members of civil society, stressed the importance of human rights education as a strategy for the prevention of human rights violations and for creating a culture of peace, tolerance and human rights. As a follow-up to discussions at the Conference, OHCHR launched a programme of regional cooperation to contribute to the strengthening of national capacities for human rights, which includes a human rights education component. The Office also organized, in cooperation with the United Nations Educational, Scientific and Cultural Organization and the Government of Mexico, the Regional Conference on Human Rights Education in Latin America and the Caribbean (Mexico City, 28 November-1 December 2001), at which representatives of relevant Governments, national human rights institutions, non-governmental organizations and academic institutions adopted the Mexico Declaration, which contains various recommendations for furthering human rights education at the regional, subregional and national levels.

7. The Office has substantively participated in and, in some cases, financially supported training and educational activities organized by various institutions and organizations at the international and regional levels, such as the Human Rights Educators' Forum (Corrymeela, United Kingdom, 4-7 October 2001) organized by Amnesty International and the Seminar on Human Rights Education for a Culture of Peace in Latin America (Caracas, 14-17 October 2001), organized by the Red Latinoamericana de Educación para la Paz y los Derechos Humanos. Finally, OHCHR has continued to assist and support human rights education programmes by all actors through the provision, free of charge, of its publications.

Supporting national capacities for human rights education

8. OHCHR has continued its technical cooperation activities aimed at strengthening national capacities in the field of human rights, including human rights education, training and public information activities. Details are provided in the reports of the Secretary-General on advisory services and technical cooperation in the field of human rights (E/CN.4/2002/116) and on national institutions for the promotion and protection of human rights (E/CN.4/2002/114) to the Commission.

Assisting grass-roots human rights education initiatives

9. As indicated in previous reports, the Assisting Communities Together (ACT) project was initiated in 1998, in cooperation with the United Nations Development Programme (UNDP), to assist organizations and individuals at the local level in carrying out activities aimed at strengthening the promotion and protection of human rights in local communities.

10. In December 2001, OHCHR will launch the 2001/2002 phase, to be implemented in the following countries:

- Burkina Faso, Burundi, Comoros, Democratic Republic of the Congo, Egypt, Guinea, Liberia, Madagascar, Sierra Leone, United Republic of Tanzania and Uganda (Africa);

- Cambodia, Occupied Palestinian Territory including East Jerusalem, Philippines and Samoa (Asia);

- Belarus, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Uzbekistan and Yugoslavia (Europe);

- Colombia, Haiti and Venezuela (Latin America and the Caribbean).

The application forms and other details on the ACT project are available upon request at the Office of the High Commissioner in Geneva and its field presences in the above-mentioned countries, as well as concerned UNDP country offices.

Developing a selected number of human rights training materials

11. Work has continued on some of the training packages developed within the programme of the Decade and in particular those aimed at human rights monitors; judges, prosecutors and lawyers; and prison officials. In the development of these materials, OHCHR works in close cooperation with relevant experts and organizations. In the reporting period, the Training Manual on Human Rights Monitoring[1] was published in English, as well as the pilot version of Human Rights and Prisons - a Training Package on Human Rights for Prison Officials.

12. OHCHR has continued to publish other human rights materials (the updated list of OHCHR publications is available upon request at the Office of the High Commissioner in Geneva) and to disseminate them among governmental and non-governmental organizations.

Globally disseminating the Universal Declaration of Human Rights

13. In the reporting period, OHCHR has continued updating and revising its UDHR database, containing more than 320 versions of the Universal Declaration. The database is available through the OHCHR Web site (http://www.unhchr.ch/udhr/index.htm).

14. In addition, OHCHR has posted on this database a new section comprising a list of more than 500 items on the Universal Declaration (printed and multimedia material as well as a broad array of souvenirs) developed by governmental and non-governmental organizations both on the occasion of the Declaration's fiftieth anniversary (1998) and prior to/after the anniversary year. The list reflects OHCHR's UDHR collection, a selection of which is permanently displayed on the ground floor of OHCHR's headquarters in Geneva.

2. United Nations Office for Drug Control and Crime Prevention

15. The Centre for International Crime Prevention of the United Nations Office for Drug Control and Crime Prevention (ODCCP) has contributed to the realization of the Plan of Action for the Decade by promoting human rights standards and guidelines in the area of the administration of justice developed by United Nations organs (such as the United Nations Congresses on the Prevention of Crime and the Treatment of Offenders). Those norms include provisions, inter alia on the protection of offenders' and victims' rights, children's rights and women's rights, to guide the conduct of various professionals in line with human rights standards. In those areas, the Centre provides legal advisory services and technical assistance to Member States through technical cooperation projects. In addition, ODCCP administers a Global Programme against Corruption as well as a Global Programme against Trafficking in Human Beings, and provides technical assistance in order to prevent and combat those phenomena.

B. Components 4 and 5: strengthening national and local programmes and capacities for human rights education

16. The Plan of Action for the Decade provides for the establishment, at the initiative of Governments or other relevant institutions, of national committees for human rights education which should include a broad coalition of governmental and non-governmental actors and be responsible for developing and implementing a comprehensive, effective and sustainable national plan of action for human rights education, in consultation with regional and international organizations. Such a plan could constitute a part of the overall national plan of action for human rights, when applicable. OHCHR has developed related Guidelines (A/52/469/Add.1 and Add.1/Corr.1) which have been widely disseminated.

17. In the reporting period, OHCHR has received the following information:

(a) Colombia. The Government of Colombia highlighted a number of activities undertaken by the Ministry of the Interior aimed at raising awareness on human rights and humanitarian law through radio programmes, distribution of publications and television spots, with a focus on the protection of human rights defenders and on respect towards differences. The target audiences are the general public (both in cities and in rural areas), police forces, NGOs, indigenous communities and other actors. Capacity-building programmes and training sessions for civil servants working for the central and the local Government are also organized, often in partnership with United Nations agencies, including the Office of the United Nations High Commissioner for Refugees and the OHCHR. The Government of Colombia further reported on the role played by the Defensoria del Pueblo in human rights education. This institution produces and disseminates relevant publications and audio-video materials, organizes training sessions for governmental and municipal civil servants, designs and implements awareness-raising campaigns and undertakes other related efforts. Each programme focuses on a specific right or issue (such as reproductive health or domestic violence) or on a set of rights (economic and social rights, political rights, children's rights, etc.);

(b) Costa Rica. The Government of Costa Rica reported that, in accordance with article 63 of the 1997 Children and Youth Code, which is based on the provisions of the Convention on the Rights of the Child, teaching institutions shall promote children's rights among the students but also among teaching and administrative personnel. In addition, the National Education Plan of the Ministry of Public Education promotes awareness-raising on human rights among students. Cooperation between the Government and bodies such as the University for Peace, the Interamerican Institute for Human Rights and UNESCO have resulted in joint human rights education projects such as workshops for teachers, members of NGOs and representatives of governmental institutions and the development of educational materials. The Government further reported on the setting up of a specific room devoted to the rights of the child in the Costa Rica Child Museum, as well as on a survey in the country and in Panama to analyse the state of human rights education in the secondary school system, which prompted a publication and a regional meeting of educators;

(c) Ethiopia. The Government of Ethiopia reported ongoing activities being undertaken by various ministries. The Ministry of Justice, through its Legal Education and Training Department and Women's Affairs Department, promotes legal education, including a

human rights component, through the media (newspapers, radio and television) and the organization of training programmes for judges, public prosecutors and women's groups. The Ministry of Education undertook a revision of school curricula in order to include human rights principles. The Government of Ethiopia also mentioned the complementary role played by civil society in raising awareness on human rights. The Government of Ethiopia underlines the need for United Nations technical assistance to better integrate human rights education in its programmes and activities;

(d) Holy See. The Holy See undertook surveys on the existing human rights education programmes within the network of Catholic institutions (schools, colleges, parishes, training centres and institutes). These surveys showed the special attention given to the promotion of economic and social rights, to the foundations of human rights in general, as well as to legal aspects. Catholic educational institutions focus on specific human rights issues (such as bioethics and the right to development) or on specific groups (such as disabled persons, indigenous peoples and minorities). In order to carry out human rights education programmes, which are directed not only at members of the clergy but also children and students attending Catholic schools, partnerships have been established with United Nations agencies, the International Committee of the Red Cross and civil society. The Holy See stressed that in some Catholic schools children and teachers from other religions are present in large numbers, and this promotes tolerance and peaceful coexistence;

(e) Mexico. The Government of Mexico informed OHCHR that as part of the 1993 educational reform human rights principles have been incorporated throughout the primary and secondary school curricula in subjects such as history (political rights), geography (environment-related rights, ethnic diversity, biodiversity) and natural sciences (right to life, health-related rights). In this exercise the age of the children has been taken into account and an approach developed that is relevant to their daily life. In the 1999/2000 school year a course of civic and ethics studies, which aims at raising awareness among teenagers on risks which can affect the free exercise of their rights, was introduced. Furthermore, the Ministry of Public Education has developed materials for students and for teachers which address human rights issues, and has revised textbooks and teaching guides;

(f) Thailand. In 1998, a national committee was set up to draft the National Policy and Plan of Action on Human Rights, which was completed and approved by the Parliament in October 2000; one of the 11 sections of the document concerns human rights education. The National Policy and Plan of Action on Human Rights is implemented through inter-ministry coordination, and the Ministry of Education is the focal point for the specific section on human rights education. The Government also reported on educational activities undertaken by the Office of the Attorney-General (focusing on public information activities for vulnerable groups and training of legal professionals), the Ministry of Education (focusing on children's rights, including the development of school curricula, materials and training for teachers and the elaboration of related legislation) and the Ministry of the Interior (focusing on the empowerment of community organizations);

(g) Tunisia. The Tunisian National Commission for Human Rights Education, which is chaired by the Minister of Education and comprises representatives of NGOs, was established in April 1996 in the framework of the Decade. It is tasked with proposing strategies for human

rights education in the light of relevant United Nations guidelines and preparing reports on relevant activities in schools and at the university level. The Government reports that human rights education takes place through the integration of human rights concepts in related programmes and materials, the organization of specific events and the revision and elimination of stereotypes contrary to tolerance in textbooks. Tunisia has also been promoting the revalorization of the teaching profession as part of the 1989 education reform; human rights modules have been included in pre-service training for future teachers in all subjects, while in-service human rights training sessions are also organized;

(h) Turkey. In July 1999, the Turkish National Committee on the Decade for Human Rights Education published the Human Rights Education Programme of Turkey (1998-2007), in partnership with relevant ministries, academic institutions and civil society. The programme is now being implemented in cooperation with various partners, including intergovernmental organizations (United Nations, Council of Europe) and civil society organizations. Among the activities mentioned are: the training of trainers for civil society entities and for the police; the inclusion of human rights issues in in-service training and entrance examinations for civil service posts; the conduct of research on human rights concepts, with the support of UNESCO; and various awareness-raising activities. The Committee expressed its agreement with various recommendations of the mid-term global evaluation of the Decade, and stressed the need for more resources to be allocated, at all levels, to human rights education.

Note

[1] Professional Training Series No. 7, United Nations publication, Sales No. E.01.XIV.2.

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THE ROLE OF GOOD GOVERNANCE IN THE PROMOTION OF HUMAN RIGHTS

Note by the Secretariat

In its resolution 2001/72 of 25 April 2001, entitled "The role of good governance in the promotion of human rights", the Commission on Human Rights requested the High Commissioner for Human Rights to reiterate the invitation made to States in resolution 2000/64 to provide practical examples of activities that have been effective in strengthening good governance practices for the promotion of human rights at the national level, including activities in the context of development cooperation between States, for inclusion in a compilation of indicative ideas and practices that could be consulted by the interested States when required, and to extend it to United Nations and other relevant international bodies.

2. Accordingly, on 18 June 2001, a note verbale was transmitted by the High Commissioner for Human Rights to all Member States, requesting relevant information for inclusion in a compilation of indicative ideas and practices. On 15 June 2001, the Office of the High Commissioner for Human Rights transmitted a similar invitation to United Nations and other relevant international bodies.

3. As of 15 November 2001, replies have been received from Australia, Azerbaijan, Cuba, Guatemala, Mexico, Switzerland, Thailand, the Food and Agricultural Organization of the United Nations, and two non-governmental entities.

4. These replies have been added to those received from Australia, Bolivia, Colombia, Cuba, Denmark, Georgia, Mexico, Norway, Portugal and New Zealand, pursuant to resolution 2000/64, and are available for consultation in the files of the Secretariat.

5. In resolution 2001/72 also, The Commission invited the High Commissioner for Human Rights, where appropriate and relevant, to draw on the material received in her work and to inform the Commission of the utility of the material in this respect.

6. Accordingly, the High Commissioner for Human Rights informs the Commission that given the comprehensiveness of the material received to date, the Office has established that a dedicated effort will be necessary to process and condense the responses into a manageable and user-friendly compilation of indicative ideas and practices. The Office has requested extrabudgetary resources for this undertaking in the 2002 Annual Appeal, and will continue to amass replies for eventual inclusion in a reference compilation of good governance ideas and practices.